

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26**, et al.,

Plaintiffs,

v.

**JOSEPH R. BIDEN, JR.**, et al.,

Defendants.

Case No. 4:21-cv-01236-O

**SUPPLEMENTAL APPENDIX IN SUPPORT OF PLAINTIFFS' MOTION FOR A  
PRELIMINARY INJUNCTION**

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	Exhibit 1: NAVADMIN 283/21, "CCDA Execution Guidance to Commanders" (Dec. 15, 2021).	1139-1150
	Exhibit 2: Konstantin Toropin, "The Navy Is Getting Ready to Boot Vaccine Refusers, But Is Offering an Olive Branch," Military.com (Dec. 15, 2021).	1151-1157
	Exhibit 3: Lolita C. Baldor, "Air Force Discharges 27 for Refusal to Get COVID Vaccine," Associated Press (Dec. 13, 2021).	1158-1164
	Exhibit 4: Secretary of Defense, Memorandum, "Force Health Protection Guidance (Supplement 23) Revision 2 – Department of Defense Guidance for Coronavirus Disease 2019 Vaccination Attestation, Screening Testing, and Vaccination Verification" (Oct. 29, 2021).	1165-1189
	Exhibit 5: Ctrs. For Disease Control & Prevention, Delta Variant: What We Know About the Science (Aug. 26, 2021).	1190-1194

	Exhibit 6: Ctrs. for Disease Control & Prevention, “Johnson & Johnson’s Janssen, How Well the Vaccine Works” (updated Oct. 29, 2021).	1195-1203
	Exhibit 7: 103 Marines Already Separated For Refusing COVID-19 Vaccine,” Marinecorpstimes.com (December 16, 2021).	1204-1210
	Exhibit 8: Valerie Insinna, “Pentagon Stops Implementing Vaccine Mandate for Defense Contractors,” Breakingdefense.com (Dec. 14, 2021).	1211-1215

Respectfully submitted this 17th day of December, 2021.

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# Tab 1

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 1**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 1, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation package was submitted to my command on November 10, 2021.

3. I received notification that my religious accommodation request had been denied on December 16, 2021.

4. I plan to appeal that decision within the deadline given to me.

5. Because of the vaccine mandate, I have lost sleep over concerns of losing the ability to provide for my family.

6. Before the COVID-19 vaccine mandate, I drilled monthly at my local base in Texas, and I was able to attend my SEAL Team's annual training in Southern California. Because of the mandate and my unvaccinated status, I have not been allowed to travel to cross assigned drill weekends at my parent command in Southern California.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy SEAL 1  
U.S. Navy SEAL 1

# Tab 2

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U. S. NAVY SEAL 2**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 2, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation package was submitted to my Command on October 17, 2021.
3. I received the denial of my religious accommodation request on December 5, 2021.

4. I appealed that decision on December 10, 2021. A reformatted version of my appeal was submitted on December 15, 2021. I have received no information as to when my appeal will be decided. I am not aware of any Navy service member who has received a final decision on their religious accommodation request.

5. I have recently sought medical care for conditions that have been exacerbated by stress and anxiety brought on by the vaccine mandate. Statements that I will lose my qualification as a SEAL if I am granted a religious accommodation have been especially troubling to my mental health. I am currently being seen for chronic insomnia and other mental effects.

6. I am currently in charge of operations at my training command. In this position, I am responsible for ensuring that other instructors have the resources, training, and support required to conduct training. This role includes coordination with multiple national contracting companies that employ approximately thirty contractors that support instruction.

7. I am a fully functional instructor and interact with students daily. We train newly qualified SEALs and SWCCs to become combat medics for all deployable commands within Naval Special Warfare. This training involves working with local civilian hospitals and EMS services. Thus, my students come into contact with civilians and healthcare providers that may not be vaccinated.

8. My mission has remained the same before and after the COVID-19 pandemic began. We are continuing to train students at historical rates. To my knowledge, there has been no significant impact to our course of instruction and we have been praised for being able to accomplish our mission in the midst of COVID-19.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 15, 2021.

/s/ U.S. Navy SEAL 2  
U.S. Navy SEAL 2



# Tab 3

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 3**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 3, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I submitted my religious accommodation package on October 16, 2021.
3. My religious accommodation request was denied on November 22, 2021, while I was on paternity leave.

4. On my final day of paternity leave, December 16, 2021, I met virtually with JAG to go over the Page 13 administrative remarks. I have until December 27th, 2021, to submit my appeal. I plan to appeal that decision within the deadline.

5. While I was on paternity leave, I was harassed by the Navy to return and submit my appeal paperwork.

6. I have been prescribed medications for depression, sleep, and nightmares. I have been diagnosed with chronic insomnia, traumatic brain injury, post-traumatic stress disorder, and hyper-vigilance. The mandate has amplified these issues.

7. Because I am unvaccinated, the Navy attempted to prevent me from traveling to receive treatment for a traumatic brain injury.

8. In my career, I have conducted three successful deployments with over ten years of service and an exceptional record of awards. Since March 2021, I have successfully trained over 100 students in medicine. I have a passion for serving as an instructor.

9. In October 2021, I was asked to step down from my position in order to prepare for separation and to get my medical appointments ordered. Since then, I have not spent any time teaching or training students, despite the other staff being overwhelmed and undermanned.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy SEAL 3  
U.S. Navy SEAL 3

# Tab 4

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 4**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 4, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I submitted my religious accommodation package on October 16, 2021.
3. I received the denial of my religious accommodation on December 8, 2021.

4. I appealed that decision on December 13, 2021. I have received no information as to when my appeal will be decided. I am not aware of any Navy service member who has received a final decision on their religious accommodation request.

5. The COVID-19 vaccine mandate has caused me to lose sleep over potential loss of income while my Navy career is uncertain.

6. After the pandemic began, but before the vaccine was available, I deployed for six months. During those six months, I traveled to over eight countries and came into contact with thousands of people. During that deployment, we were tested and quarantined before and after official travel.

7. I have since transferred to a training command where I have taught classes without issue before and after the vaccination made has been issued.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy SEAL 4  
U.S. Navy SEAL 4

# Tab 5

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 5**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 5, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I submitted my religious accommodation package on October 16, 2021.
3. I received denial of my religious accommodation request on December 8, 2021.



4. I appealed that decision on December 10, 2021. I have received no information as to when my appeal will be decided. I am not aware of any Navy service member who has received a final decision on their religious accommodation request.

5. The COVID-19 vaccine mandate has caused me significant mental strain.

6. I deployed overseas during the very early stages of the pandemic before the vaccine was available. To mitigate the spread of COVID-19, we stayed in a quarantine camp and performed identification and temperature checks whenever essential personnel left our camp. We were permitted to go to our base.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 15, 2021.

/s/ U.S. Navy SEAL 5  
U.S. Navy SEAL 5

# Tab 6

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 6**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 6, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I submitted my religious accommodation package on October 7, 2021.
3. My religious accommodation request was denied on December 3, 2021.

4. I appealed that decision on December 13, 2021. I have received no information as to when my appeal will be decided. I am not aware of any Navy service member who has received a final decision on their religious accommodation request.

5. Because of the vaccine mandate, I have visited mental health professionals for anxiety and psychological frustration.

6. I deployed overseas from March 2020 – October 2020. During this deployment, we traveled to eight different countries and had interoperability with nine other units, including air crews, boat teams, pararescue, and an entire Navy ship. We conducted regular testing and quarantines. Our mission was accomplished with 100% accuracy, despite being at the height of the pandemic, before a vaccine was available. To my knowledge, we did not have any positive cases of COVID-19.

7. After deployment, I moved to an advanced training command and became an instructor. I led 7 courses of instruction with over 140 students. During that time, we experienced no mission failure or readiness issues, and we only had one student test positive for COVID.

8. Because of the COVID-19 vaccine mandate, I have not been allowed to travel to instruct in other locations.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ US NAVY SEAL 6  
U.S. Navy SEAL 6

Tab 7

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 7**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 7, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I submitted my religious accommodation package to my Command on October 16, 2021.
3. My religious accommodation request was denied on November 23, 2021.

4. I appealed that decision on December 14th, 2021. I have received no information as to when my appeal will be decided. I am not aware of any Navy service member who has received a final decision on their religious accommodation request.

5. Since the vaccine mandate, but never before, I am being subjected to regular testing for COVID-19, despite being symptom-free. These mandated tests are the first time I have taken a COVID test during the pandemic.

6. The COVID-19 vaccine mandate has had a direct impact on my personally. I have lost sleep and experienced extreme stress because I am facing financial uncertainty. This stress has also impacted my wife and kids. Prior to the mandate-induced stress, I enjoyed my job and was nominated as Sailor of the Year for my command in 2021. Now, I have been limited in performance of my job and had to cancel courses because of the mandate.

7. I am a dive instructor with a training command. Before the pandemic, my command ran two dive courses in a year. In 2020, during the pandemic, we cancelled a course in March. During the remainder of the year and before a vaccine was available, we ran three courses in three different locations across the country. These three courses were more than we had ever done throughout the eight-year history of the course. Because of the vaccine mandate and its subsequent restrictions, we have had to cancel a course and are unsure if we will be able to conduct it again because of unvaccinated instructors.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy Seal 7

U.S. Navy SEAL 7



# Tab 8

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 8**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 8, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I submitted my religious accommodation package to my Command on October 6th, 2021.
3. My religious accommodation request was denied on November 24th, 2021.

4. I appealed that decision on December 7th, 2021. I have received no information as to when my appeal will be decided. I am not aware of any Navy service member who has received a final decision on their religious accommodation request.

5. Since August, I have been seeing two different mental health specialists. Upon realizing that I could lose my job as a SEAL and therefore access to these professionals, I have experienced additional stress and depression.

6. Since the pandemic began, I have continued to work in close quarters with my students, occasionally near each other inside a helicopter. Being unvaccinated has not impacted my ability to perform these duties.

7. I have deployed since the pandemic began in March 2020.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy SEAL 8  
U.S. Navy SEAL 8

# Tab 9

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

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Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 9**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 9, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I submitted my religious accommodation package to my Command on October 7, 2021.
3. I met with a JAG officer and signed a counseling form regarding the denial of my religious accommodation request on December 1, 2021.

4. I appealed the denial of my request on December 7, 2021. I have received no information as to when my appeal will be decided. I am not aware of any Navy service member who has received a final decision on their religious accommodation request.

5. I have successfully deployed from September 2020 to April 2021. During the deployment, we were able to maintain a robust internal training schedule and participate in several engagements.

6. The COVID-19 vaccine mandate has taken much of my personal joy. I feel anxious and depressed about the mandate and believe it's affecting how I am as a husband and father. I feel mentally, physically, and spiritually drained because this mandate has affected my sleep, my exercise, and my personal devotional time.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy SEAL 9  
U.S. Navy SEAL 9

# Tab 10

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

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v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 10**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 10, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I believe my religious accommodation request was submitted on December 10, 2021. It is currently pending. I have received no information as to when a decision will be made on my



request. I am not aware of any Navy service member who has received a final decision on their religious accommodation request.

3. Because I am unvaccinated, I am not able to reschedule any drills, regardless of work conflict or family emergency. In November, I received approval to reschedule a drill planned for early December 2021 so I could care for my children while my wife flew to and attended a family funeral. Two days before the original date of the drill I was informed that my reschedule had been cancelled and I was required to attend or risk an unauthorized absence. My command stated that I was not authorized to reschedule any drills as an unvaccinated service member. This requirement forced me to attend the drill with my children so I would not risk being administratively separated for unauthorized absence.

4. I am not currently authorized to travel for my annual training. I fear the restrictions on travel and rescheduling drills will affect my ability to have a good year of drills and annual training as a reservist. Thus, I fear I could be subject to adverse consequences or administrative separation.

5. The COVID-19 vaccine mandate has taken both a physical and mental toll on me. It has caused me loss of sleep and productivity, stress on my family relationships, and distant feelings at home and work.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy SEAL 10  
U.S. Navy SEAL 10

Tab 11

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 11**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 11, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I submitted my religious accommodation package on October 4, 2021. My request is still pending. I have received no information as to when a decision will be made on my request. I am

not aware of any Navy service member who has received a final decision on their religious accommodation request.

3. Since filing this lawsuit, my chain of command will not move forward with my retirement request.

4. I have lost many nights of sleep over this vaccine mandate, because I feel as if it is forcing me to choose between my religious convictions and being able to provide for my family. My marriage has experienced strain to the point of my wife being unwilling to discuss anything related to COVID-19 with me. Since the mandate, I have experienced days where I do not feel motivated to do anything.

5. Because of COVID-19, my division continued to meet in person by implementing social distancing, up to twice a day since April of 2020. Also, my division was instructed to take food to exposed personnel in quarantine. To my knowledge, we did not experience any spread of COVID in my ranks. The schoolhouse at my division conducted testing to ensure early detection.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ US NAVY SEAL 11  
U.S. Navy SEAL 11

# Tab 12

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 12**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 12, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I submitted my religious accommodation package on September 11, 2021.
3. In November 2021, I received positive results from a COVID-19 antibody test, showing that I have antibodies against the virus that causes COVID-19.

4. I received religious accommodation denial letter on December 9, 2021.
5. I appealed that decision on December 14, 2021.
6. Due to the nature of my position, I am able to telework if necessary. Since the pandemic began, I have been able to fulfill my duties as I always have.
7. I am unable to travel because of the COVID-19 vaccine mandate. Because I am not allowed to travel, I was unable to have my dive qualification renewed. Because of this, I believe that I will soon lose my dive pay.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. NAVY SEAL 12  
U.S. Navy SEAL 12

# Tab 13



**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 13**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 13, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I submitted my religious accommodation package to my Command on September 28, 2021.
3. My religious accommodation request was denied on November 17, 2021.

4. I appealed that decision on December 3, 2021. I have received no information as to when my appeal will be decided. I am not aware of any Navy service member who has received a final decision on their religious accommodation request.

5. I deployed overseas in March of 2020, during the beginning of the pandemic. Leaving my family during the pandemic caused me great stress.

6. During the deployment, my platoon operated normally. We abided by the restrictions placed by other countries, but was still able to conduct regular training and interactions throughout the deployment.

7. After my return, I was transferred to a four-month school. In school, I interacted with staff and students in small, confined spaces.

8. After my removal from the course I was taking, I returned to my command. As of November 11, 2021, I have been official removed from my leadership position and replaced. I received no correspondence or verbal counseling regarding my removal. I feel like I am being treated as if I am no longer a member of the command.

9. I fear being unable to re-enlist in March of 2022 because of my religious accomodation request and I am preparing myself and my family to face departure with little to no assistance from command.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy SEAL 13  
U.S. Navy SEAL 13

# Tab 14

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 15**

Pursuant to 28 U.S.C. § 1746, I, SEAL 15, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation package was submitted on October 6, 2021.
3. I was informed that my religious accommodation request had been denied on December 13, 2021.
4. I am currently preparing my appeal and plan to submit before the deadline given to me.

5. I am experiencing stress related to this matter and have spoken with my Chaplain regarding my feelings. I intend to remain steadfast and exhibit a sound mind, but I have experienced anger, sadness, and sleeplessness. I do not want my family to experience hardship, but I fear that the consequences of not being vaccinated could have major financial consequences.

6. I should be finished at the command I am currently at, but I am being temporarily retained while my religious accommodation is sorted out.

7. I currently work as an instructor of a skill that enhances Naval Special Warfare's capabilities. We teach typically teach two official courses of instruction for SEALs. In 2020 and 2021, during the pandemic, we taught three courses. We have implemented necessary COVID-19 risk mitigation to provide the SEAL teams what is required for readiness.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ US Navy SEAL 15  
U.S. Navy SEAL 15

# Tab 15

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 16**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 16, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I submitted my religious accommodation package to my Command on September 17, 2021.
3. I was notified that my religious accommodation request was denied on November 2, 2021.

4. I appealed that decision within the deadline provided. I have received no information as to when my appeal will be decided. I am not aware of any Navy service member who has received a final decision on their religious accommodation request.

5. Physically, I have experienced several nights of lost sleep and hives due to anxiety surrounding the COVID-19 vaccine mandate.

6. I have served as the training officer for two operational SEAL commands. However, because I am not vaccinated, I have missed several training symposiums and events that I was requested to attend because I am not allowed to travel due to the mandate.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy SEAL 16  
U.S. Navy SEAL 16



# Tab 16

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 17**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 17, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I submitted my religious accommodation package to my Command on October 16, 2021.
3. My religious accommodation request was denied on November 26, 2021.
4. I am currently preparing my appeal and plan to submit within the deadline given to me.

5. The Navy's COVID-19 vaccine mandate has placed an enormous burden on my wife and me. I have an appointment scheduled with a psychiatrist for stress related issues.

6. Since the mandate, I have not been allowed to travel as an instructor, because I am unvaccinated.

7. I am currently on terminal leave and do not intend to be in contact with anyone from work. However, because I am unvaccinated, I have been called back in to complete legal documentation during the religious accommodation process.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 15, 2021.

/s/ U.S. Navy SEAL 17  
U.S. Navy SEAL 17

# Tab 17

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 18**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 18, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation package was submitted on November 9, 2021.
3. My religious accommodation request is pending.

4. My Officer in Charge recommend my request be approved, but my Commodore did not favorably recommend.

5. Because I am currently in a medical board process, I am not regularly going in to work. I check in weekly with my Office in Charge. Recently, I have been trying to go to a physical and mental rehabilitation center for treatment. Prior to the mandate, my Command said they would send me on temporary duty orders, but since the mandate, I have been told that I am only allowed to travel with approved leave.

6. The threat of lost income and retirement benefits, along with the other consequences of remaining unvaccinated have caused me to feel sick to my stomach and experience headaches, muscle twitches, and skin rashes. Mentally, I have felt depressed.

7. I believe that the process of applying for a COVID-19 vaccine religious accommodation is divisive, incompatible with unit cohesion, devastating to morale, disorganized, and overly burdensome. I have lost faith in my leadership and questioned my career of service of nearly twenty-five years.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy SEAL 18  
U.S. Navy SEAL 18

# Tab 18

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 19**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 19, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation package was submitted in October of 2021.
3. My religious accommodation request was denied on November 30, 2021 while I was on an approved block of leave.



4. Rather than allowing me to respond to the denial upon my return from leave, on December 9, 2021, I was forced to submit a request for an extension of time to respond on while on leave.

5. That same day, I received written counseling stating that I could be subject to punishment for failing to comply with a direct order to receive a COVID-19 vaccination, which I refused to sign.

6. On December 13, 2021, I filed an appeal in response to the Navy's decision to deny my religious accommodation request. I am now awaiting the final decision, which could result in my separation on the basis of misconduct, pursuant to NAVADMIN 283/21 dated December 15, 2021.

[https://www.mynavyhr.navy.mil/Portals/55/Messages/NAVADMIN/NAV2021/NAV21283.txt?ver=nNhulnrr-3hkdLrBAZ\\_aKg%3d%3d](https://www.mynavyhr.navy.mil/Portals/55/Messages/NAVADMIN/NAV2021/NAV21283.txt?ver=nNhulnrr-3hkdLrBAZ_aKg%3d%3d)

7. I have received no information as to when I will receive a final decision on my accommodation request. I have not heard of anyone in the Navy who has received a final decision on their request.

8. Due to the vaccine mandate rules, I have not been able to complete my planned transfer to another command to take on a new and exciting position. That, in combination with my religious accommodation request getting denied, has created uncertainty, stress, and anxiety for me and my family's future.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy SEAL 19

U.S. Navy SEAL 19

# Tab 19

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 20**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 20, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation package was submitted to my Command on October 16, 2021.

3. I signed the acknowledgment of my religious accommodation denial on November 29, 2021.

4. I appealed that decision on December 3, 2021. I have received no information as to when my appeal will be decided. I am not aware of any Navy service member who has received a final decision on their religious accommodation request.

5. Since the vaccine mandate was issued, I have experienced loss of sleep, appetite, and motivation. I have lost time with my wife and kids because I have spent free time trying to ensure that I am properly navigating the religious accommodation process properly.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy SEAL 20

U.S. Navy SEAL 20

# Tab 20

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 21**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 21, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation package was submitted to my command in October of 2021.
3. My religious accommodation request is still pending.

4. I have received no information as to when I will receive a final decision on my accommodation request. I have not heard of anyone in the Navy who has received a final decision on their request.

5. In my position, I have not been given the opportunity to telework while others in similar circumstances have. I feel as though my command wants to punish me for submitting a religious exemption request. I am being treated in a manner similar to someone who received formal punishment by the command.

6. Before the mandate came out, I had a slot at the Army's SMU (Special Missions Unit) assessment. The vaccine mandate was issued three weeks before the start of assessment, so I had to take myself out of the class and lost the opportunity to work at that unit.

7. Before the mandate I was in a platoon as the lead medic and a fire team leader. Prior to that, I was a CQB (Close Quarters Battle) instructor, so I was mostly training my new CQB's and helping my junior medics with whatever they needed.

8. After the mandate, I was kicked out of my platoon for, what I was told was, the "health and safety" of the guys in the platoon. However, the team still let me teach four different CQB platoons for two weeks.

9. My schedule was also changed a few weeks after I was kicked out of my platoon. Prior to removal, I stood watch at a desk two or three times a week for a half day. After removal from my platoon, I spend five days a week standing watch at the desk for full days.

10. The work that I now do is minimal. Most days I have nothing to do. My duties include cleaning-up around the command, and currently, my job is to watch a painter paint a mural on a wall because she is using a scissor lift and if she falls someone needs to be there.

11. As a result of being unvaccinated, I was told to turn in my issued gear. I am unable to train or do any type of job you would think a SEAL would do. I have been made to take certain classes online and was not given the option to go to the class in person.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. NAVY SEAL 21  
U.S. Navy SEAL 21



# Tab 21

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 22**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 22, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation package was submitted on October 14, 2021.
3. My religious accommodation request is still pending.

4. I have received no information as to when I will receive a final decision on my accommodation request. I have not heard of anyone in the Navy who has received a final decision on their request.

5. I have successfully deployed both since the pandemic began in March of 2020 and since the vaccine became available in December of 2020.

6. On December 6, 2021, I was relieved of my LCPO duties as ST-7, Alpha Platoons LCPO. I was acting officially as Alphas LCPO since Change of Command on November 10th until relieved on December 6th. When I was relieved of my LCPO duties, I requested an email or documentation for my records stating that I was fired or relieved. I was told that I cannot get anything in writing because technically I was not being fired, since I was never fully transferred. I was told I was being removed because in the unlikely event my religious accommodation request is approved, I am still unable to be a Platoon LCPO. I cannot promote to the next grade without completing a platoon LCPO.

7. If my religious accommodation is denied, I have a lot to lose, including potential loss of income for me and my family, loss of medical coverage for my wife, three kids, and myself, loss of retirement, loss of my GI bill, which was set aside for my children's education, loss of promotions and milestones, loss of our house and cars, and being required to reimburse the military almost \$40,000 for my re-enlistment.

8. This entire situation has caused my family a significant amount of stress.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed December 15, 2021.

/s/ U.S. Navy SEAL 22  
U.S. Navy SEAL 22

# Tab 22

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 23**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 23, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation package was submitted on October 7, 2021.
3. My religious accommodation request was denied on November 18, 2021.
4. I appealed that decision on December 1, 2021.

5. I successfully deployed from September 2020 to March 2021.

6. I have received no information as to when I will receive a final decision on my accommodation request. I have not heard of anyone in the Navy who has received a final decision on their request.

7. Since the inception of the mandate, I have had more trouble sleeping than usual. I lie awake at night thinking about the possibility of being separated from the military. I find my mind racing well into the early hours of the next morning. After 3 months of asking, I finally got appointments for a sleep study and mental health. My wife, although she fully supports my decision, is also worried about our family's future and is troubled about how the military is treating us. I have seen her stress increase over the past four months of me dealing with this.

8. Before the mandate, I was deployed from October 2020-March 2021 and we quarantined most of the time. We had a major operation in the middle of deployment, which lasted approximately seven weeks and was extremely successful. There was no mass COVID-19 within our unit or any other unit that we were directly in contact with.

9. Upon returning from deployment, it was business as usual. I was reassigned, upon request, to NSWG-2 TD2 where I am currently an instructor. During our training blocks, I am in extremely close contact with SEAL platoon members while conducting live fire training and during debrief periods. I have worked directly with other cadre members on a daily basis where no COVID mitigation measures are used (no masks, no social distancing, no testing unless you show symptoms).

10. Since the mandate, I received an order that I would have to return home from training unless I test weekly. This order came on December 6, 2021. I still conduct training for SEAL platoon members where I am in close contact with each of them during training and in close

contact with cadre members on a daily basis. No COVID mitigation measures are taken (no masks, no social distancing). I have not tested positive for COVID since I had the virus in February of 2021, and I have not known of any COVID cases of anyone who I have worked closely with since.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy SEAL 23

U.S. Navy SEAL 23



# Tab 23

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 24**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 24, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation package was submitted on November 8, 2021.
3. My religious accommodation request is still pending.

4. I have received no information as to when I will receive a final decision on my accommodation request. I have not heard of anyone in the Navy who has received a final decision on their request.

5. I have successfully deployed both since the pandemic began in March 2020 and since the vaccine became available in December 2020.

6. Since the mandate was imposed, I have suffered significantly both physically and mentally. I have been told by my leadership that I could get kicked out in 10 days after returning from the holiday break and to be ready for that. As a result, I have experienced depression, lack of appetite, lack of energy, weight loss, and even some eczema. My migraines have increased in intensity and frequency.

7. I have had to work towards other means to provide for my family and to pay for my financial obligations, all while performing my duties and responsibilities to the Navy.

8. My marriage and children have also suffered as a result of the unknown future that lies ahead. Instead of rejoicing the birth of our Savior this holiday season, they are extremely stressed. My wife is suffering from depression and anxiety. She relies on our medical insurance to cover her medications and therapy access.

9. I attended SEAL Delivery Vehicle school and SDV instructors talked about non-vaccinated individuals as if they are ill. Being unvaccinated had no impact on my performance or completion of the qualification, and I did not pose a risk to the other students or cadre over a 2-month time period.

10. I have not changed any of my daily habits at work. The only difference is that I have been moved from Maritime division and placed into Operations "while we wait to see what happens." I now work in a strictly administrative vocation as I am no longer allowed to travel to our biggest

training block of the year to Keyport, WA. I was there during the COVID outbreak of 2020 and was instrumental in minimizing the health and increasing the safety of the men while implementing safeguards to continue training.

11. This year I am not allowed to go back, and I was placed in another working role for a different office at the command even though I went to Kodiak, AK back in March and sled testing in Panama Beach, FL in June of this year where there were no mask mandates or restrictions compared to Hawaii, where I am stationed. No COVID measures were taken and no incidences to report.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy SEAL 24  
U.S. Navy SEAL 24

# Tab 24

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SEAL 25**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 25, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation package was submitted to my Command on October 14, 2021.

3. My religious accommodation request is still pending. I have received no information as to when a decision will be made on my request. I am not aware of any Navy service member who has received a final decision on their religious accommodation request.

4. I have been removed from my platoon for not having the vaccine and placed into the operations department doing tasks such as sweeping, mopping, and sitting on a transport boat. I had to turn in my operations gear and have been asked to keep my distance from members of my previous platoons.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy SEAL 25  
U.S. Navy SEAL 25

# Tab 25



**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S NAVY SEAL 26**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy SEAL 26, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation package was submitted on October 21, 2021.
3. My religious accommodation request was denied on December 1, 2021.

4. I appealed that decision on December 6, 2021, and I submitted a reformatted version on December 14, 2021.

5. I have received no information as to when I will receive a final decision on my accommodation request. I have not heard of anyone in the Navy who has received a final decision on their request.

6. I have deployed since the pandemic began in March 2020.

7. Prior to the vaccine mandate, on October 2020, I contracted COVID-19 during a deployment. We were training partner forces indoors in close quarters. I was the medic that communicated care to those who tested positive for COVID-19. Most illnesses were resolved in three days and everyone recovered completely.

8. Since submitting my religious accommodation request, I was denied access to command family day, even though it was held at a civilian outdoor water park. I have also been denied training opportunities and will be required to conduct weekly mandatory asymptomatic testing when I return from leave.

9. I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 15, 2021.

/s/ U.S. Navy SEAL 26  
U.S. Navy SEAL 26

# Tab 26

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMAN 1**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy Special Warfare Combatant Craft Crewman (“SWCC”) 1, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation request dated September 19, 2021 explains the reasons why my sincerely held religious beliefs are burdened by the Navy’s COVID-19 vaccination requirement.

3. On September 28, 2021, the Chaplain endorsed my request for a religious accommodation after I spoke with him and explained the reasons why the COVID-19 vaccine requirement placed a substantial burden on my sincerely held religious beliefs.

4. My religious accommodation package was submitted on September 28, 2021.

5. My religious accommodation request is currently pending, and I have received no information as to when I will receive a final decision on my accommodation request. I have not heard of anyone in the Navy who has received a final decision on their request.

6. In early 2020, when the COVID-19 pandemic began, I was a Trainer in our N5 Training Department at Special Boat Team 22. I observed, instructed, and qualified Boat Captains and gunners during this time period, as well as teaching SOC-R tactics, and various courses of instruction.

7. In August 2020, I separated from SBT-22 to attend a virtual class to become a qualified Navy High Risk Instructor. Since then, I have served as an Instructor, training small unit tactics and individual shooter skills consisting of Shooter Fundamentals, Land Warfare (Fire & Maneuver or FM), Convoy/Mobility, Close Quarters Combat (CQC), Combatives, Special Operations Urban Combat (SOUC), and Designated Defensive Marksman (DDM). Additionally, I am the sole representative at our command responsible for maintaining training vehicles, ordering parts, filing paperwork for accidents, managing and submitting fuel receipts, and vehicle check-out for troops in training. My duties have not changed post-mandate. The only variable has been COVID mitigation procedures, which include initial stand down, masking, social distancing, COVID symptom screening, restricted travel, restricted activity, and now being treated as if dangerous or unclean.

8. Because I am unvaccinated, I was recently removed from two training trips. I am also not being considered for future training trips in January 2022 or an instructor certification in “Combatives.”

9. As a result of the vaccine mandate, I have been speaking with the Command Psychologist. The way the Navy has handled the requirement for all Servicemembers to be vaccinated has caused me significant stress, which continues to affect me in many ways.

10. When I was initially informed about the COVID-19 vaccine requirement, my wife expressed her feelings of neglect due to the lack of time I spent with her, the lack of attention I gave her, my inability to converse with her in a meaningful way, and my disregard for anything unrelated to COVID and the potential adverse consequences I may suffer.

11. I am currently experiencing sleep deprivation and having nightmares regarding the adverse consequences that could result from my refusal to get vaccinated. I have grave fears about losing my job, being court-martialed, being issued nonjudicial punishment, and the possibility of my marriage ending because the stress is too much to bear.

12. I have lost significant interest in doing the things I love because I have been consumed by instruction, law, and news articles regarding the COVID-19 vaccine requirement.

13. I am task-saturated at work and at home because I spend much of my time worrying about the range of adverse consequences I may suffer as a result of my decision to not get vaccinated. My thoughts are consumed with whatever information I receive throughout the day regarding the potential consequences I may face or new guidance implemented for those who refuse to be vaccinated. The latest guidance, NAVADMIN 283/21 dated December 15, 2021, provides, in part, that those who refuse the vaccine will be processed for separation as soon as practicable based on misconduct.

[https://www.mynavyhr.navy.mil/Portals/55/Messages/NAVADMIN/NAV2021/NAV21283.txt?ver=nNhu1nrr-3hkdLrBAZ\\_aKg%3d%3d](https://www.mynavyhr.navy.mil/Portals/55/Messages/NAVADMIN/NAV2021/NAV21283.txt?ver=nNhu1nrr-3hkdLrBAZ_aKg%3d%3d)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy SWCC 1

U.S. Navy SWCC 1

# Tab 27



**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SPECIAL WARFARE**

**COMBATANT CRAFT CREWMAN 2**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy Special Warfare Combatant Craft Crewman (“SWCC”) 2, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation package was submitted to my Command in October of 2021.

3. My religious accommodation request is still pending. I have received no information as to when a decision will be made on my request. I am not aware of any Navy service member who has received a final decision on their religious accommodation request.

4. I have successfully deployed both since the pandemic began in March 2020 and since the vaccine became available in December 2020.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy SWCC 2

U.S. Navy SWCC 2

# Tab 28

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SPECIAL WARFARE**

**COMBATANT CRAFT CREWMAN 3**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy Special Warfare Combatant Craft Crewman (“SWCC”) 3, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation package was submitted on October 20, 2021.
3. My religious accommodation request is still pending.

4. I have received no information as to when I will receive a final decision on my accommodation request. I have not heard of anyone in the Navy who has received a final decision on their request.

5. This mandate/lawsuit has created a significant amount of stress for me and my wife. I have been dealing with some serious depression because of the added stress to our lives and it has put such a strain on our marriage, we are looking into marriage counseling. The stress of not knowing what will happen to my career, reputation, benefits, family life, etc., has been very difficult to deal with.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 15, 2021.

/s/ U.S. Navy SWCC 3  
U.S. Navy SWCC 3

# Tab 29

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SPECIAL WARFARE**

**COMBATANT CRAFT CREWMAN 4**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy Special Warfare Combatant Craft Crewman (“SWCC”) 4, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation package was submitted on October 5, 2021.
3. I received the denial of my religious accommodation request on December 7, 2021.

4. I appealed that decision on December 10, 2021.

5. I have received no information as to when I will receive a final decision on my accommodation request. I have not heard of anyone in the Navy who has received a final decision on their request.

6. I have successfully deployed both since the pandemic began in March of 2020 and since the vaccine became available in December of 2020.

7. Being unvaccinated has yet to hinder my abilities to perform my duties as a SWCC. My vaccination status has also not affected those I work closely with on a daily basis.

8. In March 2020, when COVID measures began, I was serving my LPO tour in a Coastal Troop. We had just entered our Unit Level Training (ULT) block and implemented the following measures: social distance when appropriate, mask wearing when inside of 6 feet for more than 15 mins at a time, as well as, testing only when symptomatic. Through these unrestrictive measures, our Troop was able to successfully complete the 6-month ULT, including but not limited to, over 2,500 NM of open ocean navigation, expenditure of over two hundred and fifty thousand rounds of ammunition, dozens of high-risk evolutions and refinement of both SOP's and TTP's. At no point were we unable to complete a block of training due to COVID-19 infections.

9. Immediately following the 6-month ULT, our Troop proceeded to move on to the next training phase, a 6-month Task Group Integration training block. This training block entailed travel to many different locations and working with other units across the US. It culminated with an Exercise on the opposite coast. At no point did COVID-19 impact our mission readiness.

10. Finally, we completed a 6-month deployment where we consistently maintained mission capable readiness while utilizing the measures mentioned above. Also, I was present at a Task



Group headquarters to brief commanders on MICON development and achieving the CNO Lines of Efforts, working in close proximity with people and COVID did not affect mission readiness.

11. Because my request for a religious accommodation made me potentially non-deployable, I am not being considered for a desirable and career-enhancing leadership position.

12. Since submitting my religious accommodation request, many areas of my life have been affected. I have anxiety about what is going to happen to me as a service member and, as a result, I gained weight. I was on deployment recently and came home to my newborn son. I could barely enjoy being at home because I was constantly researching how to avoid punishment and separation from the Navy. For the first time in 10 years of serving, I saw a mental health counselor about the effects this situation is having on me and how this entire experience has negatively impacted my life in a significant way.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. NAVY SWCC 4  
U.S. Navy SWCC 4

# Tab 30

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY SPECIAL WARFARE**

**COMBATANT CRAFT CREWMAN 5**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy Special Warfare Combatant Craft Crewman (“SWCC”) 5, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation package was submitted on September 24, 2021.
3. The denial of my religious accommodation request was issued on December 14, 2021.

4. As of this date, I am currently preparing my appeal of that decision and plan to submit within the deadline presented to me.

5. I have received no information as to when I will receive a final decision on my accommodation request. I have not heard of anyone in the Navy who has received a final decision on their request.

6. I have been serving as the NSWG4 Detachment Stennis LPO before and after the mandate, which included teaching and facilitating small unit tactics for SEAL officers and SWCC operators across the three Special Boat Teams. I work alongside and oversee training with civilian contractors and active-duty personnel alike. Throughout this period, we have overcome teleworking, breakouts of COVID cases, schedule changes and incorporated all Navy and CDC mitigating procedures to adapt and overcome hurdles to successfully provide training for operators.

7. Prior to the mandate but during the pandemic, I have been able to travel on training trips and perform the full scope of my duties with minimal negative impact to the mission. I have not deployed since September 2017.

8. Since submitting my religious accommodation request, I am precluded from participating in any training trips that will incur a cost to the command. On October 4, 2021 I was pulled from a training event and issued a counseling stating I was in violation of the NAVADMIN 190/21 by remaining unvaccinated after the first dose deadline. I explained that I had pending religious and medical waivers in place and that the NAVADMIN clearly states that I am temporarily exempt from counseling while on a temporary waiver status.

9. The direct impact to me personally is increased stress for my spouse and myself. I have been personally consumed by this and have experienced loss of sleep, loss of appetite, feelings of

anxiety, hopelessness, fear, and anger. At times, this has negatively impacted my relationships at home. I have seen the base Chaplain for one-on-one sessions at his office as well as marriage counseling in order to find hope and strength through this difficult time. My chain of command expressed concerns that I probably am experiencing stress, paranoia, and frustration over this situation in which I agreed.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 15, 2021.

/s/ U.S. Navy SWCC 5  
U.S. Navy SWCC 5

# Tab 31

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY EXPLOSIVE ORDNANCE**

**DISPOSAL TECHNICIAN 1**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy Explosive Ordnance Disposal Technician (“EOD”) 1, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I submitted my religious accommodation package to my command on August 17, 2021.

3. The denial of my religious accommodation request was delivered to me on October 8, 2021.

4. I appealed that decision on October 21, 2021, and I am presently awaiting a determination on appeal.

5. I have received no information as to when I will receive a final decision on my accommodation request. I have not heard of anyone in the Navy who has received a final decision on their request.

6. Prior to the COVID-19 vaccine mandate, I successfully deployed overseas to South Korea from January 2020 to June 2020 during much of the COVID-19 pandemic in support of Special Operations Command Korea. My primary mission was to train partner forces, but I had multiple secondary objectives that I cannot mention without proper clearance. I have a deployment award stating that all training was accomplished while safely mitigating COVID-19. My team had zero health impacts from COVID. This was during the time South Korea was experiencing one of the largest COVID surges in the world.

7. From April - November 2021, my primary duty was the Tools and Methods Division Non-Commissioned Officer in Charge (NCOIC) at NAVSCOLEOD. This is the senior enlisted position within the division and is mainly administrative. However, I was regularly instructing students indoors and outdoors while adhering to COVID mitigation procedures. My staff consisted of 9 military members, 2 contractors, and 1 GS employee. Student throughput was 4 classes a month ranging from 20-25 students. These classes are multi-service, as Navy EOD school is the primary school for DOD EOD training. During my time as NCOIC, we had zero COVID impacts within the division. This was due to our strict adherence to CDC protocol and the fact that my division conducted training mostly outside.



8. My primary collateral duty aside from my NCOIC responsibilities was Proctor Coordinator. As such, I oversaw the proctor program for approximately 400 Navy students in training. I administered our Physical Screening Tests (PST) twice a month to all incoming and current students at the command. During those events there were zero impacts from COVID. Prior to my arrival at the command, PSTs were not being conducted. However, I reinvigorated the PST program and re-established the physical standards that our community holds in high regard all while successfully managing COVID protocols.

9. Post-COVID-19 vaccine mandate, I was still functioning as the division NCOIC until November 15, 2021. At that point, I was replaced. I am now solely an instructor and teach students outdoors only. I have also turned over my responsibilities as Proctor Coordinator. This was not at the order of the Commanding Officer but due to a good friend of mine who is responsible for staffing at NAVSCOLEOD. He replaced me as the NCOIC to give me time to get my life squared away outside of the Navy in the event that the execution of separation was swift. It was my decision and action to turn over the Proctor program. I did this to ensure a proper turnover was completed and that the students were taken care of. I did not want to get separated and leave the program unattended.

10. In August of 2020, I was essentially told that even if my religious accommodation request was approved, I could never hold another position within an operational command. I advised my Commanding Officer (CO) that this was incorrect because there are plenty of other billets that would not require me to deploy where I could still train other EOD technicians and be an asset to the community. In fact, another person in my prior command was retained in the community and transferred to another billet after having an inappropriate relationship. I vaguely

brought this up to my CO and asked how an immoral act can result in retention and my righteous and sincerely held belief result in separation.

11. I have experienced significant stress as a result of this situation since July of 2021. At that time, my daughter had been born a few weeks prior and I had recently bought a house. I withheld all of my anxiety until I could no longer handle the stress of having a newborn, a four-year old, and being the primary provider for my family. For the first time in my career, I went to speak with someone about my stress. I was being told this would probably be a swift action. I could be separated prior to Christmas. I talked to a psychiatrist every two weeks starting in October of 2021 and began doing yoga as directed by the psychiatrist. The hefty amount of responsibility was weighing heavily on me. It affected my wife and I for awhile. While I have made peace with my decision, my financial concerns are significant.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy EOD 1  
U.S. Navy EOD 1

# Tab 32

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY DIVER 1**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy Diver 1, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation package was submitted on October 16, 2021.
3. My religious accommodation request was denied on December 4, 2021.

4. As of this date, I am currently preparing my appeal of that decision and plan to submit within the deadline I was given.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy Diver 1

U.S. Navy Diver 1

# Tab 33

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF U.S. NAVY DIVER 2**

Pursuant to 28 U.S.C. § 1746, I, U.S. Navy Diver 2, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. My religious accommodation package was submitted to my Command on October 7, 2021.
3. I was notified on December 3, 2021, that my religious accommodation request was denied.
4. I appealed that decision on December 7, 2021.

5. I have received no information as to when my appeal will be decided. I am not aware of any Navy service member who has received a final decision on their religious accommodation request.

6. When the vaccine mandate was implemented, before I submitted a religious accommodation request, I requested to speak with a JAG regarding the written counseling I was issued for not receiving the vaccine. I was told I was unable to speak with the JAG. I then requested to speak with a Chaplain. As soon as I did this, I was placed in legal hold for refusing to obey a lawful order. I was also told I would not be able to execute my orders to SDV 1.

7. Later in the day, I was told I had to sign the written counseling or face an article 92, which is a punitive article for failure to obey an order. I, again, requested the counsel of a JAG before I would sign anything. I was told it was too late for that, and I had no choice but to sign the written counseling.

8. During my meeting with the XO and CMC, I was told I had to sign an Article 31B, which is a document put out by the Department of the Navy entitled Military Suspects Acknowledgement And Waiver Of Rights. I was told on at least three separate occasions that I had to sign this document to be able to talk to legal counsel and that if I did not sign it, they would sign it for me.

9. Since submitting my religious exemption request. I have been working in supply, cleaning equipment that is used at ECS (Expeditionary Combat School). I personally view this as punishment because of my vaccination status. ECS is a required school that I need to complete. I was supposed to be here for 4 weeks, and I have been here for almost 4 months. In addition to this, I am the only service member required to wear a mask, and I am the only person required to route a special request chit to the Commanding Officer in order to leave the base.



10. Before the vaccine mandate, I was in Navy Diver School in Panama City Beach, Florida. I graduated at the top of my class. I was able to pick my dream orders of SDV 1 in Hawaii. If the mandate did not go into effect, I would have been in Hawaii at SDV 1 for the past 3 months working in the job I was trained to do for the past seven months.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 16, 2021.

/s/ U.S. Navy Diver 2  
U.S. Navy Diver 2

# Tab 34

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**U.S. NAVY SEALs 1-26;**

**U.S. NAVY SPECIAL WARFARE  
COMBATANT CRAFT CREWMEN 1-5;**

**U.S. NAVY EXPLOSIVE ORDNANCE  
DISPOSAL TECHNICIAN 1; and**

**U.S. NAVY DIVERS 1-3,**

Plaintiffs,

v.

Case No. 4:21-cv-01236-O

**JOSEPH R. BIDEN, JR.**, in his official capacity as President of the United States of America; **LLOYD J. AUSTIN, III**, individually and in his official capacity as United States Secretary of Defense; **UNITED STATES DEPARTMENT OF DEFENSE**; **CARLOS DEL TORO**, individually and in his official capacity as United States Secretary of the Navy,

Defendants.

**SUPPLEMENTAL DECLARATION OF MICHAEL D. BERRY**

Pursuant to 28 U.S.C. § 1746, I, Michael D. Berry, under penalty of perjury declare as follows:

1. I am over the age of eighteen and am competent to make this declaration.
2. I am one of the attorneys of record for the Plaintiffs in this matter.
3. The information contained in this declaration is based on my personal knowledge.
4. Attached as Exhibit 1 to this declaration is a true and correct copy of NAVADMIN 283/21,

“CCDA Execution Guidance to Commanders” (Dec. 15, 2021).

5. Attached as Exhibit 2 to this declaration is a true and correct copy of Konstantin Toropin, “The Navy Is Getting Ready to Boot Vaccine Refusers, But Is Offering an Olive Branch,” Military.com (Dec. 15, 2021).

6. Attached as Exhibit 3 to this declaration is a true and correct copy of Lolita C. Baldor, “Air Force Discharges 27 for Refusal to Get COVID Vaccine,” Associated Press (Dec. 13, 2021).

7. Attached as Exhibit 4 to this declaration is a true and correct copy of Secretary of Defense, Memorandum, “Force Health Protection Guidance (Supplement 23) Revision 2 – Department of Defense Guidance for Coronavirus Disease 2019 Vaccination Attestation, Screening Testing, and Vaccination Verification” (Oct. 29, 2021).

8. Attached as Exhibit 5 to this declaration is a true and correct copy of Ctrs. For Disease Control & Prevention, Delta Variant: What We Know About the Science (Aug. 26, 2021).

9. Attached as Exhibit 6 to this declaration is a true and correct copy of Ctrs. for Disease Control & Prevention, “Johnson & Johnson’s Janssen, How Well the Vaccine Works” (updated Oct. 29, 2021).

10. Attached as Exhibit 7 to this declaration is a true and correct copy of Philip Athey, “103 Marines Already Separated for Refusing COVID-19 Vaccine,” Marinecorpstimes.com (December 16, 2021).

11. Attached as Exhibit 8 to this declaration is a true and correct copy of Valerie Insinna, “Pentagon Stops Implementing Vaccine Mandate for Defense Contractors,” Breakingdefense.com (Dec. 14, 2021).

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on December 17, 2021.

/s/Michael D. Berry

MICHAEL D. BERRY

# Exhibit 1

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-----OFFICIAL INFORMATION DISPATCH FOLLOWS-----  
RTTUZYUW RHOIAAA0001 3491212-UUUU--RHSSSUU.  
ZNR UUUUU  
R 151203Z DEC 21 MID200001325643U  
FM CNO WASHINGTON DC  
TO NAVADMIN  
INFO CNO WASHINGTON DC  
BT  
UNCLAS

NAVADMIN 283/21

PASS TO OFFICE CODES:  
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INFO CNO WASHINGTON DC//N1//  
MSGID/NAVADMIN/CNO WASHINGTON DC/CNO/DEC//

SUBJ/CCDA EXECUTION GUIDANCE TO COMMANDERS//

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REF/S/DOC/BUPERINST 1730.11A/16MAR20//  
REF/T/DOC/OPNAV/15AUG20//  
REF/U/BUMEDINST 6230.15B/7OCT13//

NARR/REF A IS NAVADMIN 190/21, 2021-2022 NAVY MANDATORY COVID-19  
VACCINATION AND REPORTING POLICY.

REF B IS NAVADMIN 225/21, COVID-19 CONSOLIDATED DISPOSITION  
AUTHORITY (CCDA).

REF C IS NAVADMIN 256/21, CCDA GUIDANCE TO COMMANDERS.

REF D IS THE SECRETARY OF THE DEFENSE MEMO MANDATING CORONAVIRUS  
DISEASE 2019 VACCINATION FOR DEPARTMENT OF DEFENSE SERVICE MEMBERS.

REF E IS ALNAV 062/21, 2021-2022 DEPARTMENT OF THE NAVY MANDATORY

COVID-19 VACCINATION POLICY.

REF F IS SECNAVINST 1920.6D, ADMINISTRATIVE SEPARATION OF OFFICERS.

REF G IS MILPERSMAN 1611-010, OFFICER PERFORMANCE AND SEPARATIONS FOR CAUSE.

REF H IS MILPERSMAN 1910-142, SEPARATION BY REASON OF MISCONDUCT - COMMISSION OF A SERIOUS OFFENSE.

REF I IS MILPERSMAN 1910-233, MANDATORY SEPARATION PROCESSING.

REF J IS MILPERSMAN 1910-010, ENLISTED ADMINISTRATIVE SEPARATION (ADSEP) POLICY AND GENERAL INFORMATION.

REF K IS NAVADMIN 249/21, CCDA DATA REPORTING REQUIREMENTS.

REF L IS 10 U.S. CODE SECTION 8330, ENLISTED MEMBERS: TRANSFER TO FLEET RESERVE AND FLEET MARINE CORPS RESERVE; RETAINER PAY.

REF M IS 10 U.S. CODE SECTION 8326, ENLISTED MEMBERS: 30 YEARS.

REF N IS 10 U.S. CODE SECTION 1370, REGULAR COMMISSIONED OFFICERS.

REF O IS NAVADMIN 268/21, REQUIRED COVID-19 TESTING FOR UNVACCINATED SERVICE MEMBERS.

REF P IS SECRETARY OF DEFENSE MEMO ADDRESSING CORONAVIRUS DISEASE 2019 VACCINATION FOR MEMBERS OF THE NATIONAL GUARD AND THE READY RESERVE.

REF Q IS 10 U.S. CODE SECTION 8323, OFFICERS: 20 YEARS.

REF R IS 10 U.S. CODE SECTION 12731, AGE AND SERVICE REQUIREMENTS.

REF S IS BUPERSINST 1730.11A, STANDARDS AND PROCEDURES GOVERNING THE ACCOMMODATION OF RELIGIOUS PRACTICES.

REF T IS MILPERSMAN 1730-020, IMMUNIZATION EXEMPTIONS FOR RELIGIOUS BELIEFS.

REF U IS BUMEDINST 6230.15B, IMMUNIZATIONS AND CHEMOPROPHYLAXIS FOR THE PREVENTION OF INFECTIOUS DISEASE.

RMKS/1. Purpose. Since we are now past the last date that any Navy service member may receive the vaccine and meet the deadlines specified in reference (a), this NAVADMIN provides execution guidance regarding separation of Navy service members refusing the COVID-19 vaccine as directed in references (a) through (e).

2. Policy. In order to ensure a fully vaccinated force, U.S. Navy policy is, first, that all Navy service members receive the vaccine as directed and, second, that any who refuse the vaccine be processed for separation at the earliest possible opportunity. While the vast majority of Navy service members have already received the vaccine, it remains in the interest of the Navy to encourage remaining Navy service members to become fully vaccinated as soon as possible and, at such time, consider them for retention. Regarding those who refuse the vaccine, the following policy will be implemented to maximize speed and equity in achieving a fully vaccinated force:

2.a. Navy service members eligible or approved to separate or retire on or before 1 June 2022. Upon request, permit separation or retirement (as applicable) as soon as practicable via expedited processes, in lieu of administrative separation processing. Barring extenuating circumstances, this will result in an HONORABLE characterization of service.



2.b. Navy service members not eligible to separate or retire on or before 1 June 2022: Process for administrative separation as soon as practicable based on misconduct.

2.b.(1). Less than 6 years of service: Process for separation with an HONORABLE characterization. Service members in this category are not entitled to an Administrative Separation (ADSEP) board or a Board of Inquiry.

2.b.(2). More than 6 years of service: Process for separation with a GENERAL (under honorable conditions) characterization, however, requests to waive Administrative Separation boards or Boards of Inquiry in exchange for HONORABLE characterization of service will generally be favorably endorsed (barring additional misconduct or unique circumstances).

2.c. The separation guidance in this NAVADMIN applies to active duty, full time support (FTS)/training and administration of the reserve (TAR), and selected reserve (SELRES) Navy service members refusing the vaccine. Paragraph 6, below, provides additional guidance regarding Navy Reserve service members refusing the vaccine. Navy service members in the Individual Ready Reserve (IRR), as well as U.S. Naval Academy (USNA) and Naval Reserve Officers Training Corps (ROTC) midshipmen remain subject to the vaccine mandates in references (a), (d), and (e), but will be processed per their governing instructions.

3. Action. Commanders are now directed to conduct separation processing IAW this NAVADMIN and per references (f) through (j).

3.a. If a Navy service member refusing the vaccine changes their mind and subsequently receives the vaccine, but cannot meet the deadline specified in references (a) and (e), Commanders must expeditiously report that fact to the COVID Consolidated Disposition Authority (CCDA) via \*PERS-834(at)navy.mil\* for officers and \*832vaccineadseps.fct(at)navy.mil\* for enlisted, in order to expedite determination regarding pausing or permanently waiving the administrative actions directed by references (b), (c) and this NAVADMIN. Commanders are reminded to update the data required by reference (k) in such cases.

3.b. Separation processing for Navy service members refusing the vaccine will be IAW this NAVADMIN. Where the terms of this NAVADMIN regarding separation processing conflict with references (a) through (c), this NAVADMIN supersedes and replaces that previous guidance. However, unless specifically waived by the CCDA based on receiving the vaccine, all other administrative actions associated with vaccine refusal described in references (b) and (c) including but not limited to pay, promotion/advancement, fitness reports/evaluations, etc. continue to apply in all cases of Navy service members refusing the vaccine.

3.c. Officer and enlisted service members separated based on vaccine refusal will not be eligible for involuntary separation pay.

3.d. Officers separated based on vaccine refusal who have not completed a service obligation incurred by attending the U.S. Naval Academy, receipt of a Naval Reserve Officers Training Corps Scholarship, or receipt of other advanced education funds will be required to repay their educational expenses IAW existing agreements.

3.e. The command endorsement section of separation requests processed in NSIPS per this NAVADMIN must clearly indicate \*COVID-19 VACCINE REFUSAL\* and Commanders must closely monitor progress and results throughout the process.

3.f. Navy service members with approved or pending COVID-19 vaccination exemption requests shall not be processed for separation per this NAVADMIN. Navy service members whose COVID-19 vaccination exemption request is subsequently denied are required to receive the COVID-19 vaccine as directed by the exemption adjudicating authority or if the exemption adjudicating authority does not specify, commence vaccination within 5 days of being notified of the denial. Navy service members who subsequently refuse the COVID-19 vaccine after expiration of the specified time to commence vaccination will be processed for separation per this NAVADMIN. Commanders are reminded to update the data required by reference (k) in such cases.

3.g. Any officer or enlisted service member refusing the vaccine who has a currently-approved separation or retirement (as of the date of this NAVADMIN) for a date on or before 1 June 2022 will be permitted to execute their separation or retirement without additional administrative separation processing described below.

3.h. For the purposes of this message, use of the word \*retirement\* in the case of enlisted personnel should be read to include transfer to the fleet reserve, when eligible.

4. Officer Processing: Except as provided in paragraph 3.g, the CCDA, as the show cause authority, has directed mandatory show cause processing for all officers who refuse the vaccine IAW reference (f) on the bases of Misconduct, Moral or Professional Dereliction, and Substandard Performance.

4.a. Commanders shall delay submitting a report of misconduct for officers who are beyond their minimum service requirement (MSR) to determine if they are eligible and desire to request an unqualified retirement or resignation in line with para 2.a. For officers who are not eligible and/or do not desire to request to retire or resign on or before 1 June 2022, Commanders shall initiate processing for separation by submitting a report of misconduct to Commander, Navy Personnel Command (PERS-834) per reference (g) as soon as practicable, but not later than 21 January 2022. The template for this report may be found at \*<https://www.mnp.navy.mil/group/navy-covid-19-reporting>\*. For officers who are eligible, request and are command sponsored (via NSIPS) to retire or resign on or before 1

June 2022, reports of misconduct are not required. However, if requests for retirement or resignation are disapproved by higher authority, the provisions of this paragraph regarding required reports of misconduct and officer show cause will again apply. In those cases, reports of misconduct must be initiated within 5 days of retirement or resignation disapproval.

4.a.(1). Unqualified resignation or retirement requests in line with this paragraph must be submitted no later than 21 January 2022 with a separation date no later than 1 June 2022.

4.a.(2). Officers who have not met all Time in Grade (TIG) requirements will not be recommended for a TIG waiver and will be recommended to retire at the next lower grade in which the officer served on active duty satisfactorily.

4.a.(3). Officers with prior enlisted service, more than 20 years of active service, and less than 10 years of commissioned service (YCS) are not qualified for a regular officer retirement, but will be permitted to resign their commission and reenlist in the highest enlisted paygrade previously held for the sole purpose of retiring IAW references (l) and (m).

4.a.(4). In cases where an officer is notified after 7 January 2022 that their exemption request was denied and continues to refuse the vaccine, that officer will be provided 14 days from the date of such notification to request resignation or retirement in line with paragraph 4.a. above, if they are eligible and desire to make such a request. Such requests must still ensure resignation or retirement on or before 1 June 2022.

4.b. Eligible. An officer eligible to resign is, generally, one who has completed or will complete their minimum service requirement on or before 1 June 2022. An officer eligible to retire is, generally, one who has completed or will complete at least 20 years of service on or before 1 June 2022. Additional service obligation incurred due to such Navy benefits as education and bonuses may be waived, at the discretion of the CCDA or higher authority, in exchange for agreement to repay any unearned portion of the benefit. Each case will be individually adjudicated for final determination.

4.c. Probationary Officers (as defined in reference (f), but generally less than 6 years of commissioned service).

4.c.(1). Except as provided in paragraphs 3.g. and 4.a., probationary officers who refuse the vaccine will be directed to show cause for retention by notification procedures. The least favorable characterization of service shall be HONORABLE, unless inclusion of another basis for separation warrants a less favorable characterization. The show cause authority will direct processing after receiving reports of misconduct.

4.c.(2). Once notification is complete IAW reference (f) enclosure

11, the matter will be submitted to the Secretary of the Navy for final adjudication.

4.d. Non-Probationary Officers (as defined in reference (f), but generally greater than 6 years of commissioned service).

4.d.(1). Except as provided in paragraphs 3.g. and 4.a., non-probationary officers who refuse the vaccine will be directed to show cause for retention by Board of Inquiry procedures. The least favorable characterization of service directed for consideration will be GENERAL (under honorable conditions), unless inclusion of another basis for separation warrants a less favorable characterization.

4.d.(2). Non-probationary officers who refuse the vaccine who will not be retirement or resignation eligible on or before 1 June 2022, will not have completed their MSR before 1 June 2022, are denied requests for unqualified resignation/retirement, or who do not prefer separation or retirement IAW with paragraph 4.a. above will, in the course of show cause proceedings, be offered the opportunity to submit a qualified resignation or, in some cases, a retirement request, for discharge with an HONORABLE characterization of service in exchange for waiving their right to a Board of Inquiry.

4.d.(2).(a). Qualified resignation or retirement requests under this paragraph must be submitted no later than 14 days after notification to the officer.

4.d.(2).(b). Officers requesting retirement under this paragraph will be recommended to the Secretary of the Navy for retirement in grade so long as time-in-grade requirements are met IAW references (f) and (n).

4.d.(2).(c). Officers requesting retirement under this paragraph, who have not met all TIG requirements will not be recommended for a TIG waiver and will be recommended to retire at the next lower grade in which the officer served on active duty satisfactorily.

4.d.(2).(d). Officers with prior enlisted service, more than 20 years of active service, and less than 10 years of commissioned service (YCS) are not qualified for a regular officer retirement, but will be permitted to resign their commission and reenlist in the highest enlisted paygrade previously held for the sole purpose of retiring IAW references (l) and (m).

4.d.(3). Non-probationary officers who refuse the vaccine who do not avail themselves of the opportunities and options provided above will be subject to show cause through Boards of Inquiry with GENERAL (under honorable conditions) as the least favorable characterization of service.

5. Enlisted Processing. Except as provided in paragraph 3.g., the CCDA has directed that Commanders shall initiate the administrative

separation process for all enlisted service members refusing the vaccine under reference (h), Misconduct-Commission of a Serious Offense, plus any additional basis known at the time of processing. The provisions of reference (g) and MILPERSMAN 1910 (series) apply: treat vaccine refusal cases as though they were listed in reference (i).

5.a. Commanders shall delay initiating administrative separation processing for enlisted service members who have greater than 20 years of service or have an end of active obligated service (EAOS) on or before 1 June 2022 to determine if they are eligible and desire to request separation or retirement in line with para 2.a. For those who are not eligible and/or do not desire to make such a request, initiate administrative separation processing as soon as practicable, but not later than 21 January 2022. For those who are eligible, request and are command sponsored to separate or retire on or before 1 June 2022, administrative separation processing is not required. However, if such requests are disapproved by higher authority, the provisions of this paragraph requiring separation processing will again apply. In those cases, administrative separation processing must be initiated within 5 days of disapproval.

5.a.(1). Separation or retirement requests in line with this paragraph must be submitted no later than 21 January 2022.

5.a.(2). Enlisted service members with an expected EAOS on or before 1 June 2022 may request such separation through use of the Enlisted Personnel Action Request Form NAVPERS 1306/7. Requests may be approved by Commanders as described in existing procedures.

5.a.(3). Enlisted service members retiring who submit a request IAW this paragraph will be retired in grade so long as TIG requirements are met.

5.a.(4). Enlisted service members who have not met all TIG requirements will be ineligible for a TIG waiver and will be retired at the next lower grade. Enlisted service members must include their willingness to retire at a lower pay grade within their request. Commanders must also provide a narrative in the comments that the request is being submitted IAW this NAVADMIN.

5.a.(5). In cases where an enlisted service member is notified after 7 January 2022 that their exemption request was denied and continues to refuse the vaccine, that enlisted service member will be provided 14 days from the date of such notification to request separation or retirement in line with paragraph 5.a. above, if they are eligible and desire to make such a request. Such requests must still ensure separation or retirement on or before 1 June 2022.

5.b. Eligible. An enlisted service member eligible to separate is, generally, one who will reach their EAOS on or before 1 June 2022. An enlisted service member eligible to retire is, generally, one who

has completed or will complete at least 20 years of service on or before 1 June 2022. Additional service obligations incurred due to such Navy benefits as education and bonuses may be waived, at the discretion of the CCDA or higher authority, in exchange for agreement to repay any unearned portion of the benefit. Each case will be individually adjudicated for final determination.

5.c. Enlisted service members with less than 6 years of total service (and/or reserve military service) at the time of notification.

5.c.(1). Except as provided in paragraphs 3.g. and 5.a., enlisted service members with less than 6 years of total service shall be processed for separation using notification procedures. The least favorable characterization of service shall be HONORABLE, unless significant and persistent negative aspects of the members conduct or performance of duty in the current enlistment outweigh positive aspects of the members service record, or if inclusion of another basis for separation warrants a less favorable characterization.

5.c.(2). Once the cognizant Commander completes notification, commands shall endorse and forward to PERS-8 at \*832vaccineadseps.fct(at)navy.mil\*, which will forward to the applicable separation authority and then direct separation as appropriate.

5.d. Enlisted service members with more than 6 years of total service (and/or reserve military service) at the time of notification.

5.d.(1). Except as provided in paragraphs 3.g. and 5.a., enlisted service members with more than 6 years of total service shall be processed using administrative board procedures. The least favorable characterization of service shall be GENERAL (under honorable conditions), unless inclusion of another basis for separation warrants a less favorable characterization.

5.d.(2). Enlisted service members with more than 6 years of total service who are not eligible for retirement, have an EAOS after 1 June 2022, are denied a request for separation or retirement, or who do not prefer separation IAW with paragraph 5.a. above, may request to conditionally waive an administrative separation board in exchange for separation or retirement (as applicable) with an HONORABLE characterization of service.

5.d.(2).(a). Conditional waiver requests for separation or retirement must be received by the Commander no later than 14 days after notification.

5.d.(2).(b). Unless there are extenuating circumstances, the Commander will favorably endorse the conditional waiver request and forward to PERS 8 at \*832vaccineadseps.fct(at)navy.mil\*, which will forward to the applicable separation authority and then direct

separation as appropriate. Commanders should generally disapprove a conditional waiver only where additional misconduct (other than vaccine refusal) is present.

5.d.(3). Enlisted service members requesting retirement IAW this paragraph may be recommended for retirement in grade if time in grade requirements are met (as applicable). If TIG requirements are not met, they may be recommended for retirement at the next lower grade.

5.d.(4). Enlisted service members with more than 6 years of total service who do not avail themselves of the opportunities and options above will continue to be processed for administrative separation with GENERAL (under honorable conditions) as the least favorable characterization of service.

5.e. In order to streamline processing of enlisted separation cases, commands are directed to visit <https://www.mynavyhr.navy.mil/Career-Management/Personnel-Conduct-Sep/Enlisted-Separations/> for reference materials, letter of transmittal templates and checklists to be used when submitting enlisted active and FTS/TAR ADSEP cases to \*832vaccineadseps.fct(at)navy.mil\*.

6. Additional Navy Reserve Guidance:

6.a. Navy service members who refuse the vaccine and separate from the active component (AC) will not be permitted to affiliate with or be assigned in any status within the reserve component (RC).

6.b. Separations for Navy Reserve service members refusing the vaccine will be conducted at the Navy Reserve Center to which the members are assigned. In order to be processed for retirement, separation or resignation, all Navy Reserve service members refusing the vaccine who are on active duty (ACDU), to include active duty for operational support (ADOS) and definite recall, shall be released from active duty (RAD) and returned to a reserve status no later than 21 Jan 2022.

6.c. Navy Reserve service members on ACDU orders, to include active duty for operational support (ADOS) and definite recall, who submitted a vaccine exemption request which is subsequently denied after 7 Jan 2022, and refuse the vaccine following the expiration of the specified time to commence vaccination, shall be released from active duty (RAD) and returned to a reserve status within 14 days of being notified of the denial.

6.d. Commanders must notify the Orders Issuing Authority (OIA), either PERS-92 or PERS-4X, as soon as possible if they have Navy Reserve service members refusing the vaccine on ACDU.

6.e. In accordance with reference (p), in no case will a Navy Reserve service member refusing the vaccine be granted authorized



absence from drill or excused from other reserve duties based on failure to comply with vaccination requirements.

6.f. Active duty members (including FTS/TAR) who do not have 20 qualifying years to retire, but have earned qualifying years in the reserves and have a combination of active duty and reserve years to qualify for a non-regular/reserve retirement under reference (r) should contact PERS-97 Career Transition Office by emailing your most current reserve Statement of Service to  
\*cto.officer(at)navy.mil\* for officers and  
\*cto.enlisted(at)navy.mil\* for enlisted members prior to 21 January 2022 to inform them of your intentions to be transferred to the reserves solely for the purpose of retirement.

6.g. \*Retirement\* for RC members includes transfer to the retired reserve and non-regular retirement as eligible.

6.h. Additional administrative guidance regarding Navy Reserve service members refusing the vaccine will be promulgated via a forthcoming ALNAVRESFOR message.

7. As a reminder, all unvaccinated Navy service members are subject to screening testing against COVID-19 IAW reference (o). Commanders shall continue to update the status of unvaccinated service members IAW reference (k).

8. If in doubt as to how to adjudicate issues related to separation of a Navy service member refusing the vaccine, Commanders should seek guidance from their chain of command, their staff judge advocate, and/or the CCDA before acting. Commands without an assigned legal advisor may seek legal advice from a Region Legal Service Office. In all cases, Commanders are accountable to ensure the health and safety of their command while treating every Navy service member with dignity and respect.

9. Points of contact.

My Navy Career Center: 833-330-6622, \*askmncc(at)navy.mil\*.

PERS-8 Active/FTS enlisted separations:

\*832vaccineadseps.fct(at)navy.mil\*

PERS-8 officer separations: \*PERS-834(at)navy.mil\*

PERS-8 Active/FTS/TAR enlisted retirements:

\*Enlisted\_Active\_Duty\_Retirements(at)navy.mil\*

PERS-8 Active/FTS/TAR officer retirements:

\*pers\_835\_retirements(at)navy.mil\*

PERS-8 officer and enlisted promotion delays:

NPC\_promotionwithholds.fct(at)navy.mil\*

PERS-92 officer and enlisted definite recalls:

\*PERS-92(at)navy.mil\*.

PERS-9 Reserve enlisted separations:

\*913vaccineadseps.fct(at)navy.mil\*.

PERS-97 officer transitions: \*cto.officer(at)navy.mil\*

PERS-97 enlisted transitions: \*cto.enlisted(at)navy.mil\*

OPNAV POC: CAPT Jason Grizzle, \*ALTN\_N1\_NAVY\_SCR.FCT(AT)NAVY.MIL\*.



10. Released by VADM John B. Nowell, Jr, COVID Consolidated  
Disposition Authority.

BT

#0001

NNNN

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# The Navy Is Getting Ready to Boot Vaccine Refusers, But Is Offering an Olive Branch



Covid-19 vaccine syringes are transported aboard the Wasp-class amphibious assault ship USS Keats (LHD-3) March 31, 2021. (Jake Velazquez/U.S. Navy)

15 Dec 2021

Military.com By [Konsalyn Thompson](#)

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The U.S. [Navy](#) is giving sailors who have refused to get the COVID-19 vaccine a surprising choice: You can either start getting vaccinated weeks after the formal deadline or get ready for separation.

The service issued new guidance Wednesday outlining the steps ahead for those who haven't gotten the vaccine and don't have a pending exemption request. Officials said they anticipate most who are leaving the service will separate by June 1.

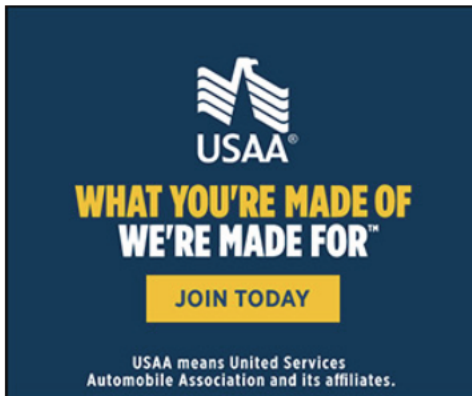


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"We want every sailor to receive the vaccine and stay Navy" Rear Adm. James Waters, the Navy's director of military personnel plans and policy, told reporters during a roundtable in advance of the release. "And if a sailor gets their shot, we will honor that and make every effort to retain them."

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"On the other hand," Waters added, "those who continue to refuse the vaccine will be required to leave the Navy."



Sailors who are already eligible for retirement or discharge before June 1 will be allowed to leave the service through an expedited process resulting in an honorable characterization of service.

Sailors not eligible for retirement or separation before June 1 "will be processed for separation on the basis of misconduct for refusing a lawful order to be vaccinated," Waters said.

Navy leaders also noted that sailors who are separated will have to repay

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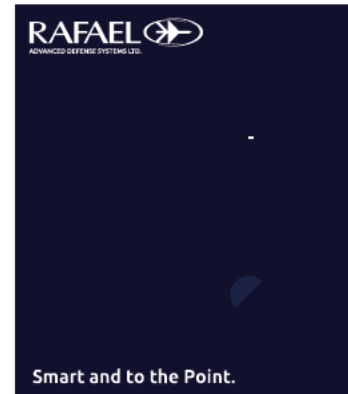
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unfulfilled obligations such as bonuses and education benefits.

The updated guidance comes just days after the U.S. [Air Force](#) announced that it [has begun separating its own service members](#) for refusing to get the shots.

According to the latest figures released on Dec. 9, the Navy still has 5,731 sailors who remain unvaccinated – about 1.65 percent of its active-duty force; 333 have medical exemptions and 2,705 sailors have filed religious accommodation requests.

However, the Navy is offering sailors one more opportunity to change their mind by still getting the shot.

Waters explained that so far, 919 sailors have gotten their vaccinations after the deadline, adding that the Navy is "working with each and every one of those sailors in an effort to retain them."

"We'll do the same for anyone else who steps forward to get their shot," he said.

Fleet Master Chief Wes Koshoffer told reporters that in his conversations with sailors, he's noticed that those refusing to get the vaccine generally fall into two categories: "The first is a very deeply held fundamental religious belief against vaccination or introducing these components into the body. And the other category ... is just a general sense or belief that the vaccine is not safe."

Navy officials noted that they are not formally collecting any information on why people are refusing the vaccine beyond the overall numbers of religious or medical exemptions.

The service has not approved any religious accommodation for COVID-19 or for any other vaccine in at least the last seven years.

Although leaders stressed that they hope sailors change their minds about the vaccine, they said that the Navy's goal is to have a fully vaccinated force as soon as possible.

"We hire and separate or retire about 35,000 sailors every year. ... We are well equipped to handle the scale that we're discussing here," Waters said.

He said that he expects "the bulk of these separations will happen in the time period between now and 1 June, because we are providing that window for anyone eligible to retire or separate in that timeframe to do so."

"However, we understand that there will be cases that will go past that point," he added.

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Koshoffer explained that "for those that do not want the vaccine that are just outright refusers we've established a fair and equitable way to part the ways."

"We will continue to treat all of our teammates with dignity and respect throughout this process."

— Konstantin Toropin can be reached at [konstantin.toropin@military.com](mailto:konstantin.toropin@military.com). Follow him on Twitter [@ktoropin](https://twitter.com/ktoropin).

**Related:** [Sailor Vaccination Rates Lower Than Earlier Reports, Navy Says](#)

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# Air Force Discharges 27 for Refusal to Get COVID Vaccine



Sen. O. R. Scott (R-NC) says a COVID-19 vaccine is not a magic bullet. Air Force Base, Fort Bragg, Sept. 30, 2021. (U.S. Air Force photo by Airman 1st Class Shaun Coburn)

13 Dec 2021

Associated Press by O. R. Scott

WASHINGTON — The [Air Force](#) has discharged 27 people for [refusing to get the COVID-19 vaccine](#) making them what officials believe are the first service

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members to be removed for disobeying the mandate to get the shots.

The Air Force gave its forces until Nov. 2 to get the vaccine and thousands have either refused or sought an exemption. Air Force spokeswoman Ann Stefanek said Monday that these are the first airmen to be administratively discharged for reasons involving the vaccine.




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She said all of them were in their first term of enlistment so they were younger lower-ranking personnel. And while the Air Force does not disclose what type of discharge a service member gets legislation working its way through Congress limits the military to giving troops in vaccine refusal cases an honorable discharge or general discharge under honorable conditions.

The Pentagon earlier this year required the vaccine for all members of the military including active duty National Guard and the Reserves. Each of the services set its own deadlines and procedures for the mandate and the Air Force set the earliest deadline. Defense Secretary Lloyd Austin has said the vaccine is critical to maintaining the health of the force and its ability to respond to an national security crisis.

None of the 27 airmen sought any type of exemption medical administrative or religious Stefanek said. Several officials from the other services said they believe that so far only the Air Force has gotten this far along in the process and discharged people over the vaccine refusal.



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As a result they were formally removed from service for failure to obey an order. Stefanek said it is also possible that some had other infractions on their

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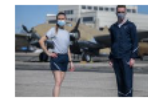
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records but all had the vaccine refusal as one of the elements of their discharge.

It is not unusual for members of the military to be thrown out of the service for disobeying an order—discipline is a key tenet of the armed services. As a comparison, Stefanek said that in the first three quarters of 2021, about 1,800 airmen were discharged for failure to follow orders.

According to the latest Air Force data, more than 1,000 airmen have refused the shot and more than 4,700 are seeking a religious exemption. As of last week, a bit more than 97% of the active-duty Air Force had gotten at least one shot.

Members of the [Navy](#) and the [Marine Corps](#) had until Nov. 28 to get the shots and their Reserve members have until Dec. 28. Army active-duty soldiers have until Wednesday and members of the Army National Guard and the Reserves have the most time to be vaccinated, with a deadline of next June 30.

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**OCT 29 2021**

**MEMORANDUM FOR SENIOR PENTAGON LEADERSHIP  
COMMANDERS OF THE COMBATANT COMMANDS  
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS**

**SUBJECT: Force Health Protection Guidance (Supplement 23) Revision 2 – Department of Defense Guidance for Coronavirus Disease 2019 Vaccination Attestation, Screening Testing, and Vaccination Verification**

This memorandum rescinds and replaces reference (a),<sup>1</sup> and provides updated guidance for implementing additional force health protection and workplace safety measures directed by the White House Safer Federal Workforce Task Force (reference (b)) to reduce the transmission of the virus that causes coronavirus disease 2019 (COVID-19).

In accordance with references (b), (c), and (d), DoD civilian employees are now required to be fully vaccinated by November 22, 2021, subject to exemptions as required by law. For purposes of this guidance, "DoD civilian employee," includes foreign nationals employed by DoD outside the United States, to the maximum extent possible while respecting host nation agreements and laws. It also includes DoD civilian employees who are engaged in full-time telework or remote work. Additional information about the requirements for DoD civilian employees can be found in Attachment 1.

DoD contractor personnel and official visitors must attest to being fully vaccinated and, if not fully vaccinated, present the results of a recent negative COVID-19 test as a condition of physical access to DoD buildings and DoD-leased spaces in non-DoD buildings in which official DoD business takes place (referred to jointly in this memorandum as "DoD facilities"). For purposes of this physical access requirement, "contractor personnel" are those individuals issued a credential by DoD that affords the individual recurring access to DoD facilities, classified herein as "credentialed recurring access" (CRA) (e.g., Common Access Cardholders). "Official visitors" are non-DoD individuals seeking access, one time or recurring, in association with the performance of official DoD business (e.g., to attend a meeting), but who do not have CRA. The COVID-19 vaccination status for all individuals with CRA and official onsite visitors will be determined in accordance with Attachment 2.

These vaccination and physical access requirements do not apply to personnel receiving ad hoc access to DoD facilities (e.g., delivery personnel, taxi services); to individuals who have access to the grounds of, but not the buildings on, DoD installations (e.g., contract groundskeepers, fuel delivery personnel, household goods transportation personnel); to personnel accessing DoD buildings unrelated to the performance of DoD business (e.g., residential housing); or to personnel accessing DoD facilities to receive a public benefit (e.g., commissary;

<sup>1</sup> References are listed in Attachment 10.

exchange; public museum; air show; military medical treatment facility; Morale, Welfare, and Recreation resources).

In accordance with reference (e), Service members (members of the Armed Forces under DoD authority on active duty or in the Ready Reserve, including members of the National Guard) are required to be fully vaccinated against COVID-19. Service members' vaccination status will be validated utilizing their Military Service-specific Individual Medical Readiness (IMR) system. If a Service member has been vaccinated against COVID-19 outside the Military Health System, that Service member must show official proof of his or her COVID-19 vaccination status to update the IMR system. Once the applicable mandatory vaccination date has passed, COVID-19 screening testing as described in Attachment 7 is required at least weekly for Service members who are not fully vaccinated, including those who have an exemption request under review, or who are exempted from COVID-19 vaccination and are entering a DoD facility. Service members who are not on active duty and who also are DoD civilian employees or DoD contractor personnel must follow the applicable requirements in this memorandum for DoD civilian employees or DoD contractor personnel, as the case may be. Service members not on active duty must comply with any other applicable DoD or DoD Component guidance.

Individuals are considered fully vaccinated 2 weeks after completing the second dose of a two-dose COVID-19 vaccine or 2 weeks after receiving a single dose of a one-dose COVID-19 vaccine. Individuals must be vaccinated with vaccines that are either fully licensed or authorized for emergency use by the Food and Drug Administration (FDA) (e.g., Pfizer-BioNTech/COMIRNATY, Moderna, Johnson & Johnson/Janssen vaccines); listed for emergency use on the World Health Organization Emergency Use Listing (e.g., AstraZeneca/Oxford); or approved for use in a clinical vaccine trial for which vaccine efficacy has been independently confirmed (e.g., Novavax). Those with previous COVID-19 infection(s) or antibody test results are not considered fully vaccinated on that basis for the purposes of this memorandum.

All medical and other information collected from individuals will be maintained in a manner meeting the privacy requirements in Attachment 9.

The Secretaries of Military Departments and the Director of Administration and Management for all other DoD Components will publish any necessary supplemental instructions and ensure that all contract and associated funding implications are considered.

DoD Components should engage with DoD civilian employee unions as they develop supplemental guidance and otherwise satisfy any applicable collective bargaining obligations under the law at the earliest convenience, including on a post-implementation basis.

This memorandum and other COVID-19 guidance memoranda are centrally located at: <https://www.defense.gov/Spotlights/Coronavirus-DOD-Response/Latest-DOD-Guidance/>.

Please direct any questions or comments to the following email address: dha.ncr.ha-support.list.policy-hrpo-kmc-owners@mail.mil.

A handwritten signature in black ink, appearing to read 'Gilbert R. Cisneros, Jr.', with a stylized flourish at the end.

Gilbert R. Cisneros, Jr.

Attachments:

1. ATTACHMENT 1: Vaccination Requirements for DoD Civilian Employees
2. ATTACHMENT 2: Requirements for DoD Contractor Personnel, Official Onsite Visitors, and Others Seeking Access to Facilities
3. ATTACHMENT 3: DD Form 3175 – “DoD Civilian Employee Certification of Vaccination”
4. ATTACHMENT 4: DD Form 3150 – “Contractor and Visitor Certification of Vaccination”
5. ATTACHMENT 5: DD Form 3176 – “Request for a Medical Exemption or Delay to the COVID-19 Vaccination Requirement”
6. ATTACHMENT 6: DD Form 3177 – “Request for a Religious Exemption to the COVID-19 Vaccination Requirement”
7. ATTACHMENT 7: COVID-19 Screening Testing Requirements
8. ATTACHMENT 8: Requirements for Obtaining Self-Collection Kits and Self-Tests
9. ATTACHMENT 9: Privacy Requirements
10. ATTACHMENT 10: References

**ATTACHMENT 1**  
**Vaccination Requirements for DoD Civilian Employees**

**1. Vaccination Requirement**

- a. DoD civilian employees who are not currently fully vaccinated must meet or have met the following deadlines, if using vaccines that are fully licensed or authorized for emergency use by the FDA, in order to be fully vaccinated by November 22, 2021:
  - i. October 11: first dose deadline (if receiving the Moderna vaccine);
  - ii. October 18: first dose deadline (if receiving the Pfizer-BioNTech/COMIRNATY vaccine);
  - iii. November 8: second dose deadline (if receiving the Moderna and PfizerBioNTech/COMIRNATY vaccines);
  - iv. November 8: first (only) dose deadline (if receiving the Johnson & Johnson/Janssen vaccine); and
  - v. If DoD civilian employees use an authorized vaccine other than those listed above, they are responsible for being fully vaccinated by November 22, 2021.
- b. DoD civilian employees who are not fully vaccinated must comply with all DoD requirements for individuals who are not fully vaccinated, including those requirements related to masking, physical distancing, and travel. Regular COVID-19 testing is not required prior to November 22, 2021. On or after November 22, 2021, weekly COVID-19 testing is required for those DoD civilian employees who are not fully vaccinated, including those who have medical or religious exemptions. DoD civilian employees who telework or work remotely on a full-time basis are not subject to weekly testing, but must provide a negative result from a test performed within the prior 72 hours for entry into a DoD facility.
- c. DoD civilian employees are eligible to receive the COVID-19 vaccine at any DoD vaccination site, including military medical treatment facilities. They may also opt to receive the COVID-19 vaccine at locations other than DoD vaccination sites, such as retail stores, private medical practices, and/or local and State public health department sites.
- d. New DoD civilian employees must be fully vaccinated by their entry on duty (start) date or November 22, 2021, whichever is later.
  - i. The DoD or Office of the Secretary of Defense (OSD) Component head concerned may approve temporary exemptions in writing for up to 60 days after a DoD civilian employee's start date for urgent, mission-critical hiring needs in circumstances in which a DoD civilian employee could not have been fully vaccinated between the time the job opportunity announcement closes and the DoD civilian employee's start date. This authority may be delegated in writing to the DoD or OSD Component head's Principal Deputy (or equivalent) but no lower.

- ii. DoD Components must address the COVID-19 vaccination requirement in job opportunity announcements and tentative and final offer letters. For hiring actions currently underway, DoD Components must issue revised tentative and final offer letters. Sample language can be found in reference (f).
- e. DoD civilian employees are authorized official duty time to receive vaccination doses. For DoD civilian employees who are unable to receive a COVID-19 vaccination within their duty hours, regular overtime rules are applicable.
- f. DoD civilian employees are authorized administrative leave for purposes of taking a family member to get a vaccination and for themselves to recover from vaccination. DoD civilian employees who experience an adverse reaction to a COVID-19 vaccination should be granted no more than 2 workdays of administrative leave for recovery associated with a single COVID-19 vaccination dose. DoD civilian employees should use the time and attendance code for “physical fitness” to record administrative leave for COVID-19 vaccination recovery time that prevents the employee from working or for taking a family member to be vaccinated for COVID-19. The type hour code is “LN” and the environmental/hazard/other code is “PF”. Non-appropriated fund employers should code administrative leave related to COVID-19 in a way that can be easily reported.

## **2. Verification of Vaccination**

- a. DoD civilian employees who have received a dose of a one-dose vaccine, or both doses of a two-dose vaccine, must provide proof of vaccination to their supervisors. For purposes of the vaccination data submission and verification requirements, “supervisor” includes authorized human resources officials. Proof of vaccination may be submitted in hard copy or in an electronic format, and the proof may be a photocopy or photograph of the vaccination record, if it legibly displays the data points to be verified by supervisors. DoD civilian employees who are not fully vaccinated must provide proof of vaccination to their supervisors upon receipt of each required dose. Acceptable proof includes:
  - i. A copy of the record of immunization from a health care provider or pharmacy;
  - ii. A copy of the COVID-19 Vaccination Record Card (CDC Form MLS-319813\_r, published on September 3, 2020);
  - iii. A copy of medical records documenting the vaccination;
  - iv. A copy of immunization records from a public health or State immunization information system; or
  - v. A copy of any other official documentation containing the data points required to be verified by the supervisor.
- b. In addition to providing proof of vaccination to their supervisors, DoD civilian employees also will complete Section A of DD Form 3175 (Attachment 3). DoD civilian employees with access to milConnect (<https://milconnect.dmdc.osd.mil/>)

will complete the DD Form 3175 via milConnect; otherwise use of a hard copy<sup>2</sup> is acceptable. DoD civilian employees who complete the DD Form 3175 via milConnect do not need to email or otherwise transmit a copy of the form to their supervisors. DoD civilian employees using a hard copy will provide the hard copy to their supervisor. DoD civilian employees are required to complete the DD Form 3175 even if they already completed the DD Form 3150 (Attachment 4).

- c. Upon receiving proof of vaccination, a DoD civilian employee's supervisor will verify that the proof of vaccination provided contains the following data points:
  - i. Type of vaccine administered;
  - ii. Number of doses received;
  - iii. Date(s) of administration; and
  - iv. Name of the health care professional(s) or clinic site(s) administering the vaccine(s).
- d. In addition to verifying that a DoD civilian employee's proof of vaccination includes the required data points, supervisors also will complete Section B of DD Form 3175 beginning on or about November 7, 2021 (or when activation of the form is completed for supervisor use). Supervisors with access to milConnect (<https://milconnect.dmdc.osd.mil/>) will complete the DD Form 3175 via milConnect using the DoD civilian employee's Employee Identification Number; otherwise use of a hard copy is acceptable.
- e. Supervisors will retain DoD civilian employees' proof of vaccination and DD Form 3175 (for those DoD civilian employees not using milConnect) in accordance with their DoD Component's recordkeeping requirements for DoD civilian employee medical records and the privacy requirements contained in Attachment 9. Supervisors should not ask for copies of the DD Form 3175 from those employees who used milConnect to complete the form. Supervisors who receive completed copies of the DD Form 3175 from DoD civilian employees who completed the DD Form 3175 using milConnect shall not maintain the copy.
- f. DoD civilian employees may not be required to use their own personal equipment for the purpose of submitting proof of vaccination or DD Form 3175. DoD civilian employees who submit proof of vaccination or the DD Form 3175 in an electronic format are encouraged to use encrypted email or password protected files with DoD SAFE file transfer (<https://safe.apps.mil/>).

### **3. Enforcement of DoD Civilian Employee COVID-19 Vaccination Requirement:**

- a. DoD civilian employees who refuse to be vaccinated, or to provide proof of vaccination, are subject to disciplinary measures, up to and including removal from Federal service, unless the DoD civilian employee has received an exemption or the DoD civilian employee's timely request for an exemption is pending a decision. DoD

<sup>2</sup> <https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd3175.pdf>



Components should generally follow the recommended guidelines in reference (g), subject to any applicable Component policy and collective bargaining agreements.

- b. Progressive enforcement actions include, but are not limited, to:
  - i. A 5 calendar-day period of counseling and education;
  - ii. A short suspension without pay, generally 14 calendar days or less, with an appropriate notice period. Senior Executive Service members may only be suspended for more than 14 calendar days;
  - iii. Removal from Federal service for failing to follow a direct order.
- c. During the notice periods preceding adverse employment actions, DoD civilian employees generally should not be placed on administrative leave. DoD Components should require DoD civilian employees to continue to telework or report to the worksite and follow all mitigation measures applicable to not fully vaccinated DoD civilian employees when reporting to the worksite.
- d. DoD Components will designate officials, at the appropriate organizational level, to handle the disciplinary process to promote consistent application of disciplinary measures. Such officials will decide each case with due regard to the facts and circumstances of that case. DoD Components may begin enforcement action as soon as November 22, 2021, for DoD civilian employees who are not fully vaccinated and who do not have an exemption request approved or a timely request pending decision.
- e. Supervisors should contact their servicing human resources and legal offices to discuss options available to address individual situations regarding enforcement of this requirement.
- f. DoD Components are encouraged to identify an occupational health office, medical office, or other resource with which a DoD civilian employee may consult during the period of counseling and education.

#### **4. Exemptions to DoD Civilian Employee COVID-19 Vaccination Requirement:**

DoD civilian employees may request an exemption on the basis of a medical condition or circumstance or a sincerely held religious belief, practice or observance. Because all DoD civilian employees must now be vaccinated against COVID-19 as a condition of employment, exemptions will be granted in limited circumstances and only where legally required. The information collected must be handled in accordance with the privacy requirements in Attachment 9.

- a. **Decision Authority.** In establishing exemption processes, the Secretaries of Military Departments and the Director of Administration and Management for all other DoD Components will ensure that the management official(s) who are designated to make decisions concerning requests for exemption from the COVID-19 vaccination requirement make such decisions in coordination with the organization's servicing

legal office and are at an appropriate level within the organization to consider the impact, if any, of the volume of requests and to promote similar cases being handled in a consistent manner. Such officials will decide each case with due regard to the facts and circumstances of that case.

- b. **Employee Notice.** DoD Components will inform DoD civilian employees how to make a request for an exemption and notify them that requests must be submitted no later than November 8, 2021, absent extenuating circumstances, to be considered timely.
- c. **Employee Requests.** To make a request for exemption from vaccination, DoD civilian employees must provide an official statement which describes the medical or religious reason the employee objects to vaccination against COVID-19. Generally, such requests should be submitted in writing. DoD civilian employees may use DD Form 3176 (Attachment 5) or DD Form 3177 (Attachment 6) to submit their request. DoD civilian employees who make oral requests may be provided a sample written request format and/or be interviewed to develop the basis for the request. While the use of the DD Form 3176 and DD Form 3177 is optional for DoD civilian employees, when DoD civilian employees make a request, they must provide the following information.
  - i. **Medical.**
    - A description of the medical condition or circumstance that is the basis for the request for a medical exemption from the COVID-19 vaccination requirement;
    - An explanation of why the medical condition or circumstance prevents the employee from being safely vaccinated against COVID-19;
    - If it is a temporary medical condition or circumstance, a statement concerning when it will no longer be a medical necessity to delay vaccination against COVID-19; and
    - Any additional information, to include medical documentation that addresses the employee's particular medical condition or circumstance, which may be helpful in resolving the employee's request for a medical exemption from the COVID-19 vaccination requirement.
  - ii. **Religious.**
    - A description of the religious belief, practice, or observance that is the basis for the request for a religious exemption from the COVID-19 vaccination requirement;
    - A description of when and how the DoD civilian employee came to hold the religious belief or observe the religious practice;
    - A description of how the DoD civilian employee has demonstrated the religious belief or observed the religious practice in the past;
    - An explanation of how the COVID-19 vaccine conflicts with the religious belief, practice, or observance;
    - A statement concerning whether the DoD civilian employee has previously raised an objection to a vaccination, medical treatment, or



- medicine based on a religious belief or practice. If so, a description of the circumstances, timing, and resolution of the matter; and
  - Any additional information that may be helpful in resolving the DoD civilian employee's request for a religious exemption from the COVID-19 vaccination requirement.
- d. Minimum Requirements for Exemption Procedures. The Secretaries of Military Departments and the Director of Administration and Management for all other DoD Components will ensure that exemption procedures require the following measures.
  - i. Development of a written factual record that includes the following:
    - The basis for the claim;
    - The nature of the DoD civilian employee's job responsibilities; and
    - The reasonably foreseeable effects on the agency's operations, including protecting other agency employees and the public from COVID-19, if the civilian employee remains unvaccinated.
  - ii. Designation of the DoD civilian employee's supervisor for completing Section B of the DoD civilian employee's DD Form 3175, as the proper recipient for a DoD civilian employee's request for exemption. For purposes of exemption request procedures, "supervisor" includes authorized human resources officials. Upon receipt, the supervisor will update the DD Form 3175 to indicate a request for exemption determination is pending and forward the request to the office supporting the designated decision maker.
  - iii. A process for the decision maker to obtain any reasonably necessary additional information (for example, medical documentation, an interview of the DoD civilian employee, or a supervisor statement) and to consult with, as appropriate, subject matter experts within DoD such as occupational health personnel, public health personnel, equal employment opportunity advisors, chaplains, and human resources personnel.
  - iv. A written determination, including the reason(s) for that determination, by the decision maker. In cases where the exemption is temporary or denied, the determination must specify a date by which the DoD civilian employee must be fully vaccinated against COVID-19. In specifying that date, DoD civilian employees must be given a minimum period of 14 days to receive their first (or only) dose of a COVID-19 vaccine.
  - v. Provision of the written determination to the DoD civilian employee's supervisor, who, in turn, provides the DoD civilian employee with a copy of the written determination, updates the DD Form 3175, and informs the DoD civilian employee of next steps.
- e. Additional Guidance.
  - i. Requests for medical exemption will be treated as medical records to be maintained separately from other personnel files. Both medical and religious exemption requests will be maintained in accordance with the privacy requirements at Attachment 9.

- ii. A DoD civilian employee's failure to submit a timely request for exemption is not a basis to deny a request but may be relevant in evaluating the request.
- iii. Discipline for failure to meet the COVID-19 vaccination requirement will not be initiated against a DoD civilian employee while a timely request for a medical or religious exemption from the COVID-19 vaccination requirement is pending determination. If a DoD civilian employee submits a request after discipline is initiated, disciplinary measures may be held in abeyance where appropriate.
- iv. DoD civilian employees who are not fully vaccinated but who have a pending request for exemption from vaccination are required to comply with any mitigation measures that are applicable to all DoD civilian employees in the worksite who are not fully vaccinated (for example, screening testing (Attachment 7), masking, and physical distancing). Requests for reasonable accommodation related to those mitigation measures may be analyzed separately from requests for exemption from vaccination.
- v. A DoD civilian employee who receives an exemption from the vaccination requirement may, because of the exemption, be unable to perform the duties and responsibilities of the position without a change in working conditions. Such matters will be referred to the reasonable accommodation process.
- vi. Requests for exemption from candidates for employment will be handled consistent with the provisions in this attachment, except for those in paragraph 4.b.
- vii. Unless responsibility is otherwise established in a written support agreement, the Combatant Command Support Agent identified in reference (h) is responsible for administration of exemption processes applicable to DoD employees assigned, detailed, or otherwise deployed to a Combatant Command area of responsibility.

## **ATTACHMENT 2**

### **Requirements for DoD Contractor Personnel, Official Onsite Visitors, and Others Seeking Access to Facilities**

#### **1. DoD Contractor Personnel**

- a. For DoD contractor personnel, the DoD civilian vaccination deadline of November 22, 2021, does not apply. Vaccination requirements for DoD contractor personnel will be in accordance with reference (i), as implemented by reference (j), as directed under Executive Order 14042 (reference (k)).
- b. DoD contractor personnel will complete the DD Form 3150, “Contractor and Visitor Certification of Vaccination” (Attachment 4), maintain a current completed DD Form 3150, and show it to authorized DoD personnel upon request. Failure to complete the DD Form 3150 may result in denying DoD contractor personnel access to the DoD facility to which access is sought.
- c. DoD contractor personnel who are not fully vaccinated against COVID-19 because they are not performing under a covered contract that requires COVID-19 vaccination, due to a legally required accommodation, or who decline to attest to their COVID-19 vaccination status will be subject to COVID-19 screening testing at least weekly as set forth in this guidance (Attachment 7). DoD contractor personnel who refuse required screening testing will be denied access to DoD facilities.
- d. In accordance with applicable contracts, DoD contractor personnel may be offered, but are not required to receive, COVID-19 vaccines at their DoD worksites.

#### **2. Official Onsite Visitors**

- a. Official onsite visitors will complete DD Form 3150, “Contractor and Visitor Certification of Vaccination”<sup>3</sup> (Attachment 4); and maintain a current completed DD Form 3150 and show it to authorized DoD personnel, upon request. Failure to complete the DD Form 3150 may result in denial of an official onsite visitor’s access to the DoD facility to which access is sought.
- b. Official visitors who are not fully vaccinated against COVID-19, or who decline to volunteer their COVID-19 vaccination status, must show an electronic or paper copy of negative results from an FDA-authorized or approved COVID-19 test administered no earlier than 72 hours prior to their visit. If an official visitor is unable to show a negative COVID-19 test result, the visitor may be provided onsite self-testing, if available, or will be denied access to the DoD facilities to which access is sought. Service members who are not on active duty at the time of their official visit are subject to the requirements in this paragraph.

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<sup>3</sup> <https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd3150.pdf>

- c. Official visitors will follow applicable policies and procedures of both DoD and the Department or Agency they are visiting, if different from DoD.

**3. Others Seeking Access to Facilities**

Individuals other than official visitors seeking access to facilities located on DoD installations, but operated by other Federal departments and agencies, will follow the policies and procedures of that other department or agency.

## ATTACHMENT 3

### DD Form 3175 – “DoD Civilian Employee Certification of Vaccination”

CUI (when filled in)

DoD CIVILIAN EMPLOYEE CERTIFICATION OF VACCINATION	
<b>PRIVACY ACT STATEMENT</b>	
<p><b>Authority:</b> Pursuant to 5 U.S.C. chapters 11 and 79, and in discharging the functions directed under Executive Order 14043, Requiring Coronavirus Disease 2019 Vaccination for Federal Employees (Sept. 9, 2021), DoD is authorized to collect this information. Additional authorities for the systems of records associated with this collection of information also include: E.O. 13991, Protecting the Federal Workforce and Requiring Mask-Wearing; E.O. 12196, Occupational Safety and Health Program for Federal Employees; 10 U.S.C. 113, 10 U.S.C. 136, 10 U.S.C. 7013, 10 U.S.C. 8013, 10 U.S.C. 9013, 10 U.S.C. 2672; DoD Directive 5525.21; and DoD Instruction 6200.03. Providing this information is mandatory, and DoD is authorized to impose penalties for failure to provide the information pursuant to applicable Federal personnel laws and regulations.</p> <p><b>Principal Purpose:</b> This information is being collected and maintained to implement Coronavirus Disease 2019 (COVID-19) workplace safety plans, and ensure the safety and protection of the DoD workforce, workplace, and other DoD facilities and environments, consistent with the above-referenced authorities, the COVID-19 Workplace Safety: Agency Model Safety Principles established by the Safer Federal Workforce Task Force, and guidance from the Centers for Disease Control and Prevention and the Occupational Safety and Health Administration.</p> <p><b>Routine Use(s):</b> While the information requested on this form is intended to be used primarily for internal purposes, in certain circumstances it may be necessary to disclose this information externally, for example to disclose information to: a person, organization or governmental entity as necessary and relevant to notify them of, respond to, or guard against a public health emergency, or other similar crisis, including to comply with laws governing the reporting of communicable disease or other laws concerning health and safety in the work environment; adjudicative bodies (e.g., the Merit System Protection Board), arbitrators, and hearing examiners to the extent necessary to carry out their authorized duties regarding Federal employment; contractors, grantees, experts, consultants, students, and others as necessary to perform their duties for the Federal government; or agencies, courts, and persons as necessary and relevant in the course of litigation, and as necessary and in accordance with requirements for law enforcement; or to a person authorized to act on your behalf.</p> <p>A complete list of routine uses may be found in the applicable System of Records Notice (SORN) associated with the collection of this information as follows: For most Federal civilian employees: OPM/GOVT-10, Employee Medical File System Records, 75 Fed. Reg. 35099 (Jun. 21, 2010), amended 80 Fed. Reg. 74815 (Nov. 30, 2015). For Federal civilian employees not covered by OPM/GOVT-10: DPR 39 DoD, DoD Personnel Accountability and Assessment System of Records, 85 Fed. Reg. 17047 (Mar. 26, 2020) (also available at <a href="https://dpdcd.defense.gov/Portals/49/Documents/Privacy/SORNs/OSDJS/DPR-39-DoD.pdf">https://dpdcd.defense.gov/Portals/49/Documents/Privacy/SORNs/OSDJS/DPR-39-DoD.pdf</a>).</p> <p><b>Consequences of Failure to Provide Information:</b> Providing this information is mandatory. Unless granted an exemption, all covered Federal civilian employees are required to be vaccinated against COVID-19. Employees are required to provide documentation concerning their vaccination status to their employing DoD Component. Failure to provide this information may subject you to disciplinary action, including and up to removal from Federal service.</p>	
<p><b>INSTRUCTIONS:</b> Section A of this form should be completed by DoD civilian employees only. Section B of this form should be completed by the DoD civilian employee's supervisor (or authorized human resources official). This form should be completed by DoD civilian employees only. Service members and employees of DoD contractors should not complete this form.</p>	
<b>SECTION A. To be completed by DoD civilian employees.</b>	
1. CIVILIAN EMPLOYEE NAME (Last, First, MI):	2. CIVILIAN EMPLOYEE DoD ID NUMBER:
<p><b>3. PLEASE CHECK ALL THAT COINCIDES WITH YOUR COVID-19 VACCINATION STATUS:</b></p> <p><input type="checkbox"/> 3.a. I am fully vaccinated. Individuals are considered "fully vaccinated" two weeks after completing the second dose of a two-dose COVID-19 vaccine or two weeks after receiving a single dose of a one-dose vaccine. Accepted COVID-19 vaccines are those which have received a license or emergency use authorization from the U.S. Food and Drug Administration and those COVID-19 vaccines on the World Health Organization Emergency Use Listing. "Fully vaccinated" also includes circumstances in which the individual was a participant in a U.S. site clinical trial and has received all recommended doses.</p> <p><input type="checkbox"/> 3.b. I have received one or more doses, but I am not yet considered fully vaccinated (in accordance with the definition of fully vaccinated above).</p> <p><input type="checkbox"/> 3.c. I have submitted proof of vaccination to my supervisor. Proof of vaccination includes a copy of the record of immunization from a health care provider or pharmacy, a copy of the COVID-19 Vaccination Record Card, a copy of medical records documenting the vaccination, a copy of immunization records from a public health or state immunization information system, or a copy of any other official documentation. Employees may provide a digital copy of such records, including, for example, a digital photograph, scanned image, or PDF of such a record that is clear and legible.</p> <p><input type="checkbox"/> 3.d. I have not received any vaccination doses.</p> <p><input type="checkbox"/> 3.e. I have submitted a request for an exemption from vaccination and a decision is still pending.</p> <p><input type="checkbox"/> 3.f. I have an approved exemption from vaccination.</p>	

DD FORM 3175, OCT 2021

CUI (when filled in)

Controlled by: OUSD(P&R)  
 Controlled by: ASD(HA)  
 CUI Category: HLTH, PRVCY, OPSEC  
 LDC: DL(DoD Only)  
 POC: [osd.pentagon.ousd-p-r.mbx.forms@mail.mil](mailto:osd.pentagon.ousd-p-r.mbx.forms@mail.mil)

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CUI (when filled in)

<b>4. EMPLOYEE VACCINE INFORMATION</b> (Employees checking block 3.a. should skip block 4 and go to block 5):	
<b>4.a. VACCINE MANUFACTURER(S) OR VACCINE PRODUCT NAME(S):</b> <input type="checkbox"/> Pfizer-BioNTech/Comirnaty <input type="checkbox"/> Moderna <input type="checkbox"/> AstraZeneca/Oxford <input type="checkbox"/> Johnson and Johnson (J&J)/Janssen <input type="checkbox"/> Novavax <input type="checkbox"/> Other U.S. Food and Drug Administration licensed or authorized, World Health Organization Emergency Use listed vaccine or U.S. site clinical trial vaccine (provide name):	<b>4.b. DATE OF FIRST DOSE:</b>  <b>4.c. DATE OF SECOND DOSE</b> (if two-dose vaccine):  <b>4.d. DATE FULLY VACCINATED:</b>
<b>5. CERTIFICATION/KNOWLEDGE OF POSSIBLE ACTIONS FOR FALSE STATEMENTS</b>	
<input type="checkbox"/> I certify that the information I have provided on this form and the proof of vaccination documentation I have submitted is true and correct. I understand that a knowing and willful false statement on this form can be punished by fine or imprisonment or both (18 U.S.C. 1001). I understand that making a false statement on this form could result in additional administrative action including an adverse personnel action up to and including removal from my position.	
<b>6. CIVILIAN EMPLOYEE SIGNATURE:</b> 	<b>7. DATE:</b>
<b>SECTION B. To be completed by the supervisor of the DoD civilian employee completing section A (or an authorized human resources official)</b>	
<b>8. SUPERVISOR PROOF OF VACCINATION REVIEW</b> <input type="checkbox"/> 8.a. Proof of vaccination not received. <input type="checkbox"/> 8.b. Proof of vaccination received and under review. <input type="checkbox"/> 8.c. Proof of vaccination received and reviewed.	<b>9. STATUS OF VACCINATION - EXEMPTION REVIEW</b> <input type="checkbox"/> 9.a. Exemption request received and pending disposition. <input type="checkbox"/> 9.b. Exemption request received and approved. <input type="checkbox"/> 9.c. Exemption request received and denied. <input type="checkbox"/> 9.d. Exemption request not received.
<b>10. SUPERVISOR / AUTHORIZED HR OFFICIAL NAME</b> (Last, First, MI):	<b>11. SUPERVISOR / AUTHORIZED HR OFFICIAL DoD ID NUMBER:</b>
<b>12. SUPERVISOR / AUTHORIZED HR OFFICIAL SIGNATURE:</b> 	<b>13. DATE:</b>

DD FORM 3175, OCT 2021

PREVIOUS EDITION IS OBSOLETE.

CUI (when filled in)

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## ATTACHMENT 4

### DD Form 3150 – “Contractor Personnel and Visitor Certification of Vaccination”

CUI (when filled in)

<b>CONTRACTOR PERSONNEL AND VISITOR CERTIFICATION OF VACCINATION</b>		OMB No. 0704-0613 Expiration: 20220228
<p style="text-align: center; font-weight: bold;">AGENCY DISCLOSURE NOTICE</p> <p>The public reporting burden for this collection of information is estimated to average 2 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Washington Headquarters Services, at <a href="mailto:whs.mc-alex.esd.mbx.dd-dod-informationcollections@mail.mil">whs.mc-alex.esd.mbx.dd-dod-informationcollections@mail.mil</a>. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.</p>		
<p style="text-align: center; font-weight: bold;">PRIVACY ACT STATEMENT</p> <p><b>Authority:</b> DoD is authorized to collect the information on this form pursuant to Executive Order (E.O.) 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors; E.O. 13991, Protecting the Federal Workforce and Requiring Mask-Wearing; and E.O. 12196, Occupational Safety and Health Program for Federal Employees; as well as 10 U.S.C. 113, 10 U.S.C. 136, 10 U.S.C. 7013, 10 U.S.C. 8013, 10 U.S.C. 9013, 10 U.S.C. 2672, 5 U.S.C. chapter 79, and DoD Instruction 6200.03.</p> <p><b>Principal Purpose:</b> This information is being collected to implement Coronavirus Disease 2019 (COVID-19) workplace safety plans, including DoD's COVID-19 testing programs, and to ensure the safety and protection of the DoD workforce, workplace, and other DoD facilities and environments, consistent with the above-referenced authorities, the COVID-19 Workplace Safety: Agency Model Safety Principles established by the Safer Federal Workforce Task Force, and guidance from the Centers for Disease Control and Prevention and the Occupational Safety and Health Administration.</p> <p><b>Routine Use(s):</b> While the information requested on this form is intended to be used primarily for internal purposes, in certain circumstances it may be necessary to disclose this information externally, for example to disclose information to: a person, organization, or governmental entity as necessary and relevant to notify them of, respond to, or guard against a public health emergency or other similar crisis, including to comply with laws governing the reporting of communicable disease or other laws concerning health and safety in the work environment; adjudicative or administrative bodies or officials when the records are relevant and necessary to an adjudicative or administrative proceeding; contractors, grantees, experts, consultants, students, and others as necessary to perform their duties for the Federal government; agencies, courts, and persons as necessary and relevant in the course of litigation, and as necessary and in accordance with requirements for law enforcement; or to a person authorized to act on your behalf. A complete list of routine uses may be found in the applicable System of Records Notice (SORN) associated with the collection of this information from contractor personnel and DoD visitors: DPR 39 DoD, DoD Personnel Accountability and Assessment System of Records, 85 Fed. Reg. 17047 (Mar. 26, 2020) (also available at <a href="https://dpdcd.defense.gov/Portals/49/Documents/Privacy/SORNs/OSDJS/DPR-39-DoD.pdf">https://dpdcd.defense.gov/Portals/49/Documents/Privacy/SORNs/OSDJS/DPR-39-DoD.pdf</a>).</p> <p><b>Consequences of Failure to Provide Information:</b> Providing this information is voluntary. However, if you fail to provide this information, you will be treated as not fully vaccinated for purposes of implementing safety measures, including subject to COVID-19 screening testing and/or denied access to DoD facilities. Failure to provide such information may also hinder DoD's ability to implement COVID-19 workplace safety plans, thereby increasing the health or safety risk to DoD-affiliated personnel and DoD facilities.</p>		
<p><b>INSTRUCTIONS:</b> This form should be completed by DoD contractor personnel and official visitors in accordance with current DoD Force Health Protection Guidance. DoD civilian employees should not complete this form.</p>		
1. NAME (Last, First, MI):	2. DoD ID NUMBER:	
<p><b>3. PLEASE CHECK THE BOX BELOW THAT COINCIDES WITH YOUR COVID-19 VACCINATION STATUS :</b></p> <p><input type="checkbox"/> I am fully vaccinated. Individuals are considered "fully vaccinated" two weeks after completing the second dose of a two-dose COVID-19 vaccine or two weeks after receiving a single dose of a one-dose vaccine. Accepted COVID-19 vaccines are those which have received a license or emergency use authorization from the U.S. Food and Drug Administration and those COVID-19 vaccines on the World Health Organization Emergency Use Listing. "Fully vaccinated" also includes circumstances in which the individual was a participant in a U.S. site clinical trial and has received all recommended doses.</p> <p><input type="checkbox"/> I am not yet fully vaccinated. I received only one dose of an accepted two-dose COVID-19 vaccine, or I received my final dose of an accepted COVID-19 vaccine less than two weeks ago.</p> <p><input type="checkbox"/> I have not been vaccinated.</p> <p><input type="checkbox"/> I decline to respond.</p> <p>Individuals who choose not to complete the form will be assumed to be not fully vaccinated for purposes of application of the safety protocols. If you are not vaccinated due to medical or religious reasons, please check either "I have not been vaccinated" or "I decline to respond." Note that if you have already received one dose of a vaccine, but are not yet fully vaccinated, or if you received your final dose less than two weeks ago, then you will be treated as not fully vaccinated until you are at least two weeks past your final dose and resubmit your vaccination information.</p> <p><input type="checkbox"/> I certify that the information provided in this form is accurate and true to the best of my knowledge.</p> <p>I understand that a knowing and willful false statement on this form can be punished by fine or imprisonment or both (18 U.S.C. 1001). Checking "I decline to respond" does not constitute a false statement.</p>		
4. DATE (YYYYMMDD)	5. SIGNATURE (Full Name)	

DD FORM 3150, OCT 2021

CUI (when filled in)

Controlled by: OUSD(P&R)  
 Controlled by: ASD(HA)  
 CUI Category: HLTH: PRVCY: OPSEC  
 LDC: DL(DoD Only)  
 POC: [osd.pentagon.ousd-p-r.mbx.forms@mail.mil](mailto:osd.pentagon.ousd-p-r.mbx.forms@mail.mil)

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## ATTACHMENT 5

## DD Form 3176 – “Request for a Medical Exemption or Delay to the COVID-19 Vaccination Requirement”

CUI (when filled in)

<b>REQUEST FOR A MEDICAL EXEMPTION OR DELAY TO THE COVID-19 VACCINATION REQUIREMENT</b>		OMB No. 0704-0619 Exp. 20220430
<p>The public reporting burden for this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Washington Headquarters Services, at whs.mc-alex.esd.mbx.dd-dod-informationcollections@mail.mil. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.</p>		
<b>PRIVACY ACT STATEMENT</b>		
<p><b>Authority:</b> DoD is authorized to collect the information on this form pursuant to 29 U.S.C. 794, 42 U.S.C. Chapter 21, Subch. VI; Executive Order (E.O.) 14043, Requiring Coronavirus Disease 2019 Vaccination for Federal Employees; E.O. 13163, Increasing the Opportunities for Individuals with Disabilities to be Employed in the Federal Government; E.O. 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation; 29 CFR 1614.203, Rehabilitation Act; DoD Directive 1020.1, Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of Defense; as well as 10 U.S.C. 113, 10 U.S.C. 136, 10 U.S.C. 7013, 10 U.S.C. 8013, 10 U.S.C. 9013, 10 U.S.C. 2672, 5 U.S.C. chapter 79, and DoD Instruction 6200.03.</p> <p><b>Principal Purpose:</b> The information on this form is being collected so that DoD may determine whether to grant your request for a medical exemption from the COVID-19 vaccination requirement for federal employees, pursuant to Executive Order 14043 and in furtherance of COVID-19 workplace safety plans.</p> <p><b>Routine Use(s):</b> While the information requested on this form is intended to be used primarily for internal purposes, in certain circumstances it may be necessary to disclose this information externally. For example, disclosure of medical condition or history information to authorized government officials for the purpose of conducting an investigation into DoD's compliance with the Rehabilitation Act of 1973; disclosure of medical condition or history information to first aid and safety personnel in the event an employee's medical condition might require emergency treatment or special procedures; to Federal agencies/entities participating in the DoD Computer/Electronic Accommodations Program (CAP) to permit the agency to carry out its responsibilities under the program; A complete list of routine uses may be found in the applicable System of Records Notice (SORN) associated with the collection of this information: DoD 0007, Defense Reasonable Accommodations and Assistive Technology Records. 86 Fed. Reg. 38682 (July. 22, 2010) (available at <a href="https://www.govinfo.gov/content/pkg/FR-2021-07-22/pdf/2021-15801.pdf">https://www.govinfo.gov/content/pkg/FR-2021-07-22/pdf/2021-15801.pdf</a>).</p> <p><b>Consequences of Failure to Provide Information:</b> Providing this information is voluntary and use of this form is optional. Failure to provide the information requested on this form may impact DoD's ability to evaluate or act upon a request for a medical exemption from the COVID-19 vaccination requirement. Any intentional misrepresentation to the Federal Government may result in legal consequences, including termination or removal from Federal Service.</p>		
<p><b>Instructions:</b> Part 1 is to be completed by DoD civilian employees. Part 2 is to be completed by a licensed health care provider. Provide narrative responses where applicable (Blocks 8-10, 15-17). If additional space is needed, proceed on the appropriate continuation block (Block 11 or 20) by annotating the Section and Line number and continue your narrative response. Signing this form constitutes a declaration that the information you provide is, to the best of your knowledge and ability, true and correct. Any intentional misrepresentation to the Federal Government may result in legal consequences, including removal from Federal Service.</p>		
<b>PART 1. TO BE COMPLETED BY THE DOD CIVILIAN EMPLOYEE</b>		
1. Employee Name (Last, First, Middle Initial)		2. DoD ID Number
3. Office Symbol		4. Date of Request (YYYYMMDD)
5. Position/Title	6. Supervisor Name	7. Supervisor Phone Number
8. Please provide a description of the medical condition or circumstance that is the basis for the request for a medical exemption from the COVID-19 vaccination requirement.		
9. Please provide an explanation of why the medical condition or circumstance prevents you from being vaccinated.		
10. Please provide any additional information, that addresses your particular medical condition or circumstance, which may be helpful in resolving your request for a medical exemption or delay from the COVID-19 vaccination requirement. If you have medical documentation (in addition to Part 2 of this Form) that addresses your particular medical condition or circumstance you may submit the documentation to your supervisor along with this form.		

DD FORM 3176, OCT 2021  
PREVIOUS EDITION IS OBSOLETE.

CUI (when filled in)

Controlled by: OUSD(P&R) Page 1 of 2  
CUI Category: HLTH, PRVY, OPSEC  
LDC: DL (DoD Only)  
POC: dodhra.mc-alex.dhra-hq.mbx.forms@mail.mil



CUI (when filled in)

11. Continuation	
I declare to the best of my knowledge and ability that the foregoing is true and correct.	
12. Date (YYYYMMDD)	13. Signature
<b>PART 2. COMPLETED BY EMPLOYEE'S HEALTH CARE PROVIDER</b>	
14. Employee Name	
<b>MEDICAL CERTIFICATION FOR COVID-19 VACCINE EXEMPTION OR DELAY</b>	
Dear Health Care Provider:	
<p>The Department of Defense requires its employees to be fully vaccinated against COVID-19, pursuant to Executive Order of the President of the United States. As indicated in Part 1, the individual named above is seeking a medical exemption to the requirement for COVID-19 vaccination or a delay because of a temporary condition or medical circumstance. Please complete this form to assist the Department in its review process.</p> <p>Please provide at least the following information, where applicable, and use the continuation block as needed:</p>	
<p>15. Please identify any contraindication(s) or precaution(s) for COVID-19 vaccination that are applicable to the individual, and for each contraindication or precaution, indicate:</p> <p>(a) whether it is recognized by the U.S. Centers for Disease Control and Prevention pursuant to its guidance; and</p> <p>(b) whether it is listed in the package insert or Emergency Use Authorization fact sheet for each of the COVID-19 vaccines authorized or approved for use in the United States.</p>	
<p>16. Please provide a statement detailing how the individual's condition and medical circumstances are such that COVID-19 vaccination is not considered safe. Please explain the specific nature of the medical condition or circumstance that contraindicates immunization with a COVID-19 vaccine or might increase the risk for a serious adverse reaction.</p>	
<p>17. Please provide any other medical information that would limit the employee from receiving any COVID-19 vaccine.</p>	
<p>18. The condition described above is:</p> <p><input type="checkbox"/> Temporary</p> <p><input type="checkbox"/> Long-Term/Permanent</p>	<p>19. If the employee is seeking a delay due to a temporary medical condition or circumstance, please indicate when the employee would be able to safely receive a COVID-19 vaccination - provide details if limited to specific COVID-19 vaccine(s) or type(s) of COVID-19 vaccine.</p>
20. Continuation	
21. Health Care Provider Name/Title	
22. Date (YYYYMMDD)	23. Medical Provider Signature

DD FORM 3176, OCT 2021

PREVIOUS EDITION IS OBSOLETE.

CUI (when filled in)

Page 2 of 2

## ATTACHMENT 6

## DD Form 3177 – “Request for a Religious Exemption to the COVID-19 Vaccination Requirement”

CUI (when filled in)

REQUEST FOR A RELIGIOUS EXEMPTION TO THE COVID-19 VACCINATION REQUIREMENT		
<b>PRIVACY ACT STATEMENT</b>		
<p><b>Authority:</b> DoD is authorized to collect the information on this form pursuant to Executive Order (E.O.) 14043, Requiring Coronavirus Disease 2019 Vaccination for Federal Employees; 42 U.S.C. Chapter 21, Subchapter VI; 42 U.S.C. Chapter 21B; as well as 10 U.S.C. 113, 10 U.S.C. 136, 10 U.S.C. 7013, 10 U.S.C. 8013, 10 U.S.C. 9013, 10 U.S.C. 2672, 5 U.S.C. chapter 79, and DoD Instruction 6200.03.</p> <p><b>Principal Purpose:</b> The information on this form is being collected so that DoD may determine whether to grant your request for a religious exemption from the COVID-19 vaccination requirement for federal employees, pursuant to Executive Order 14043 and in furtherance of COVID-19 workplace safety plans. Consistent with the Religious Freedom Restoration Act of 1993, 42 U.S.C. Chapter 21B, and Title VII of the Civil Rights Act, 42 U.S.C. Chapter 21, Subchapter VI, individuals seeking a religious exemption from the vaccination requirement will submit to DoD supporting information about their religious beliefs or practices in order for DoD to evaluate the exemption request.</p> <p><b>Routine Use(s):</b> While the information requested on this form is intended to be used primarily for internal purposes, in certain circumstances it may be necessary to disclose this information externally. For example to disclose information to: a person, organization, or governmental entity as necessary and relevant to notify them of, respond to, or guard against a public health emergency or other similar crisis, including to comply with laws governing the reporting of communicable disease or other laws concerning health and safety in the work environment; adjudicative or administrative bodies or officials when the records are relevant and necessary to an adjudicative or administrative proceeding; contractors, grantees, experts, consultants, students, and others as necessary to perform their duties for the Federal government; agencies, courts, and persons as necessary and relevant in the course of litigation, and as necessary and in accordance with requirements for law enforcement; or to a person authorized to act on your behalf. A complete list of routine uses may be found in the applicable System of Records Notices (SORN) associated with the collection of this information: <u>DPR 39 DoD, DoD Personnel Accountability and Assessment System of Records</u>, 85 Fed. Reg. 17047 (Mar. 26, 2020) (also available at <a href="https://dpcid.defense.gov/Portals/49/Documents/Privacy/SORNs/OSDJS/DPR-39-DoD.pdf">https://dpcid.defense.gov/Portals/49/Documents/Privacy/SORNs/OSDJS/DPR-39-DoD.pdf</a>).</p> <p><b>Consequences of Failure to Provide Information:</b> Providing this information is voluntary and use of this form is optional. Failure to provide the information requested on this form may impact DoD's ability to evaluate or act upon a request for a religious exemption from the COVID-19 vaccination requirement. Any intentional misrepresentation to the Federal Government may result in legal consequences, including removal from Federal Service.</p>		
<p><b>Instructions:</b> To be completed by DoD civilian employees. Provide narrative responses where applicable (Blocks 8-11, 12.b, 12.c, 13). If additional space is needed, proceed on the continuation block (Block 14) by annotating the Section and Line number and continue your narrative response. Signing this form constitutes a declaration that the information you provide is, to the best of your knowledge and ability, true and correct. Any intentional misrepresentation to the Federal Government may result in legal consequences, including removal from Federal Service.</p>		
1. Employee Name (Last, First, Middle Initial)	2. DoD ID Number	
3. Office Symbol	4. Date of Request (YYYYMMDD)	
5. Position/Title	6. Supervisor Name	7. Supervisor Phone Number
8. Please describe the religious belief, practice, or observance that is the basis for your request for a religious exemption from the COVID-19 vaccination requirement.		
9. Please describe when and how you came to hold the religious belief or observe the religious practice.		
10. Please describe how you have demonstrated the religious belief or observed the religious practice in the past.		
11. Please explain how the COVID-19 vaccines conflict with your religious belief, practice, or observance.		

DD FORM 3177, OCT 2021  
PREVIOUS EDITION IS OBSOLETE.

CUI (when filled in)

Controlled by: OUSD(P&R) Page 1 of 2  
CUI Category: HLTH, PRVCY, OPSEC  
LDC: DL(DoD Only)  
POC: dodhra.mc-alex.dhra-hq.mbx.forms@mail.mil

**CUI (when filled in)**

<b>12.a</b> Have you previously raised an objection to a vaccination, medical treatment, or medicine based on a religious belief or practice. <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>12.b</b> If Yes, please provide a description of the circumstances, timing, and resolution of the matter.	
<b>12.c</b> If No, please provide an explanation as to why your objection is limited to the particular COVID-19 vaccines.	
<b>13.</b> Please provide any additional information that may be helpful in resolving your request for a religious exemption from the COVID-19 vaccination requirement. You may submit additional documentation in support of this request to your supervisor along with this form.	
<b>14.</b> Continuation	
I declare to the best of my knowledge and ability that the foregoing is true and correct.	
<b>15.</b> Date (YYYYMMDD)	<b>16.</b> Signature

**DD FORM 3177, OCT 2021**  
 PREVIOUS EDITION IS OBSOLETE.

**CUI (when filled in)**

Page 2 of 2

**ATTACHMENT 7**  
**COVID-19 Screening Testing Requirements**

1. To establish COVID-19 screening testing for individuals for whom screening testing is required, DoD Components will:
  - a. Execute the screening testing requirement with COVID-19 self-collection kits or self-tests at least weekly (depending on the type of test kit used) that should be performed primarily onsite at the installation or facility with proper supervision and documentation of testing results. If onsite COVID-19 screening testing is not feasible, as an alternative self-testing may be performed at home or in other locations (Note: these COVID-19 self-tests do not require a health care provider's clinical care order and are, therefore, considered an over-the-counter test and do not require medical support to complete). Screening testing will use those tests authorized by Attachment 8; and
  - b. Procure and provide these COVID-19 self-tests and establish guidance for where and how these tests will be distributed and conducted and how results are to be reported.
    - i. DoD civilian employees are responsible for providing documentation of negative COVID-19 test results, upon receipt, to the appropriate supervisor. For purposes of screening testing requirements, "supervisor" includes authorized human resources officials. DoD civilian employees may not be required to use their own personal equipment for the purpose of documenting test results; offsite tests may not be used if there is not a means to document results using government equipment. The supervisor is responsible for maintaining any COVID-19 test results provided by DoD civilian employees in accordance with the privacy protection measures in Attachment 9.
    - ii. DoD contractor personnel with CRA will maintain their most recent COVID-19 test result and show such results to authorized DoD personnel upon request.
2. After COVID-19 screening testing procedures are established, the personnel identified in this memorandum as subject to screening testing are required to have a COVID-19 screening test using a test authorized by Attachment 8, and receive a negative COVID-19 screening test result for entry into a DoD facility. If the COVID-19 screening test is administered offsite, the negative result must be from a test performed within the prior 72 hours. If a COVID-19 screening test is administered onsite, the test will be administered before DoD civilian employees and contractor personnel go to their work areas. In accordance with reference (1) and CDC guidance, personnel who have recovered from a recent COVID infection and who remain asymptomatic are exempted from regular screening testing for 90 days following their documented date of recovery. Documented proof of this recovery shall be provided upon request.
3. DoD civilian employees and DoD contractor personnel with CRA who have positive COVID-19 screening tests will be required to remain away from the workplace in accordance

with references (l) and (m). DoD civilian employees and DoD contractor personnel with CRA with positive COVID-19 screening tests will be offered, but not required to take, confirmatory laboratory-based molecular (i.e., polymerase chain reaction) testing paid for by the relevant DoD Component. Contact tracing and mitigation measures will be conducted in accordance with references (l) and (m). If the confirmatory test is negative, the individual is not considered to be COVID-19 positive and will be allowed into the workplace.

4. For DoD civilian employees, COVID-19 screening testing is expected to take no more than one hour of regular duty time, per test, to complete required testing as directed by the DoD Component. Laboratory-based confirmatory COVID-19 testing for initial positive screening test results is expected to take no more than two hours of duty time. This includes time for travel to the testing site, time to complete testing, and time to return to work. Commanders and supervisors will monitor duty time usage and keep duty time used for testing within these parameters to the extent possible.
5. DoD Components may bar DoD civilian employees who refuse required screening testing from their worksites on the installation or facility to protect the safety of others, including while any progressive disciplinary actions are pending. While barred from their worksites on the installation or facility, such DoD civilian employees may be required to telework, as appropriate.

**ATTACHMENT 8**  
**Requirements for Obtaining Self-Collection Kits and Self-Tests**

COVID-19 self-tests must have Instructions for Use and FDA approval, 510(K) premarket clearance or have an FDA Emergency Use Authorization, and will be made available through the Defense Logistics Agency. DoD Components are responsible for funding required COVID-19 screening tests.

Funding for COVID-19 testing, if self-collection kits or self-tests are not available:

- a. Each DoD Component will reimburse Service members and DoD civilian employees for COVID-19 screening tests that require payment for purposes of meeting the screening testing requirement (e.g., if the screening test is not available through the DoD Component and must be administered by a facility who charges for the test).
- b. For COVID-19 testing of DoD contractor personnel with CRA, DoD Components will offer, if available, COVID-19 testing similar to that offered to DoD civilian employees at the DoD Component's expense and at no cost to the contractor personnel or the contractor.

## **ATTACHMENT 9**

### **Privacy Requirements**

Under this guidance memorandum, the DoD may collect and maintain sensitive and private information about individuals, including medical information. Consistent with the Religious Freedom Restoration Act of 1993, 42 U.S.C. chapter 21B, and Title VII of the Civil Rights Act, 42 U.S.C. chapter 21, subchapter VI, individuals seeking a religious exemption from the vaccination requirement will submit to DoD supporting information about their religious beliefs and practices in order for DoD to evaluate the exemption request. Information collected from individuals under this guidance, including vaccination information, test results, and medical or religious information supporting vaccine exemption requests, will be treated in accordance with applicable laws and policies on privacy, including the Privacy Act of 1974 and DoD Instruction 5400.11, “DoD Privacy and Civil Liberties Programs,” January 29, 2019 (reference (n)), the Rehabilitation Act of 1973, as amended (“Rehabilitation Act”), and 5 CFR Part 293, subpart E. While such information may be sensitive and is to be safeguarded, it is not covered by the Health Insurance Portability and Accountability Act (HIPAA) and the associated HIPAA Rules.

Information gathered under this guidance may be shared with immediate supervisors, authorized human resources officials, designated decision makers, and, in appropriate cases, subject matter experts, who must access the information to implement the guidance. DoD Components are advised to consult their Component Privacy Officer and servicing legal office if there is a need to share medical or religious information collected under this guidance with DoD personnel beyond what this guidance permits or with individuals outside of DoD. Religious information will be accessible only to those persons who have a role in carrying out the procedures outlined in this memorandum. Medical information obtained from DoD civilian employees, including vaccination status, will be accessible only to immediate supervisors, authorized human resources officials, and, for exemption requests, designated decision makers and subject matter experts, who must access the information to implement the guidance in this memorandum. The Rehabilitation Act’s requirements on confidentiality of medical information apply whether or not a DoD civilian employee has a disability.

DoD personnel will use appropriate safeguards in handling and storing DoD civilian employee medical information, including a DoD civilian employee’s proof of vaccination, the DD Form 3175, COVID-19 test results, and exemption requests. Appropriate safeguards may include encrypting emails and electronic files, and role-based access to electronic storage environments where this information is maintained. In the event the information is maintained in paper form, supervisors and other authorized DoD personnel must ensure DoD civilian employee medical information remains confidential and is maintained separately from other personnel files (e.g., stored in a separate, sealed envelope marked as confidential DoD civilian employee medical information and maintained in locked file cabinets or a secured room). DoD Components are advised to refer to applicable internal guidance on the handling, storage, and disposition of DoD civilian employee medical records, and to consult their Component Privacy Officer as needed for further guidance.

**ATTACHMENT 10**  
**References**

- (a) Under Secretary of Defense for Personnel and Readiness Memorandum, Force Health Protection Guidance (Supplement 23) Revision 1 – Department of Defense Guidance for Coronavirus Disease 2019 Vaccination Attestation, Screening Testing, and Vaccination Verification, October 18, 2021 (hereby rescinded)
- (b) Safer Federal Workforce Task Force, “COVID-19 Workplace Safety: Agency Model Safety Principles,” September 13, 2021
- (c) Executive Order 14043, “Requiring Coronavirus Disease 2019 Vaccination for Federal Employees,” September 9, 2021
- (d) Deputy Secretary of Defense Memorandum, “Mandatory Coronavirus Disease 2019 Vaccination of DoD Civilian Employees,” October 1, 2021
- (e) Secretary of Defense Memorandum, “Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members,” August 24, 2021
- (f) United States Office of Personnel Management Memorandum, “Guidance on Applying Coronavirus Disease 2019 Vaccination Requirements to New Hires – Executive Order 14043,” October 1, 2021
- (g) United States Office of Personnel Management Memorandum, “Guidance on Enforcing Coronavirus Disease 2019 Vaccination Requirement for Federal Employees – Executive Order 14043,” October 1, 2021
- (h) Department of Defense Directive 5100.03, “Support of the Headquarters of Combatant and Subordinate Unified Command” February 9, 2011, Incorporating Change 1, September 7, 2017
- (i) Safer Federal Workforce Task Force, “COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors,” September 24, 2021
- (j) Principal Director for Defense Pricing and Contracting Memorandum, “Class Deviation 2021-O0009—Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors, October 1, 2021
- (k) Executive Order 14042, “Ensuring Adequate COVID Safety Protocols for Federal Contractors,” September 9, 2021
- (l) Acting Under Secretary of Defense for Personnel and Readiness Memorandum, “Force Health Protection Guidance (Supplement 18) – Department of Defense Guidance for Protecting All Personnel in Department of Defense Workplaces During the Coronavirus Disease 2019 Pandemic,” March 17, 2021
- (m) Acting Under Secretary of Defense for Personnel and Readiness Memorandum, “Force Health Protection Guidance (Supplement 15) Revision 2 – Department of Defense Guidance for Coronavirus Disease 2019 Laboratory Testing Services,” July 2, 2021
- (n) Department of Defense Instruction 5400.11, “DoD Privacy and Civil Liberties Programs,” January 29, 2019



# Exhibit 5



Centers for Disease Control and Prevention  
CDC 24/7: Saving Lives, Protecting People™



## COVID-19

# Delta Variant: What We Know About the Science

Updated Aug. 26, 2021

On July 27, 2021, CDC released [updated guidance](#) on the need for urgently increasing COVID-19 vaccination coverage and a recommendation for everyone in areas of [substantial or high transmission](#) to wear a mask in public indoor places, even if they are fully vaccinated. CDC issued this new guidance due to several concerning developments and newly emerging data signals.

First, a significant increase in new cases reversed what had been a steady decline since January 2021. In the days leading up to our guidance update, CDC saw a rapid and alarming rise in the COVID-19 case and hospitalization rates around the country.

- In late June, the 7-day moving average of reported cases was around 12,000. On July 27, the 7-day moving average of cases reached over 60,000. This case rate looked more like the rate of cases we had seen before the vaccine was widely available.

Second, new data began to emerge that the Delta variant was more infectious and was leading to increased transmissibility when compared with other variants, even in some vaccinated individuals. This includes recently published data from CDC and our public health partners, unpublished surveillance data that will be publicly available in the coming weeks, information included in CDC's updated [Science Brief on COVID-19 Vaccines and Vaccination](#), and ongoing outbreak investigations linked to the Delta variant.

Delta is currently [the predominant variant](#) of the virus in the United States. Below is a high-level summary of what CDC scientists have recently learned about the Delta variant. More information will be made available when more data are published or released in other formats.

## Infections and Spread

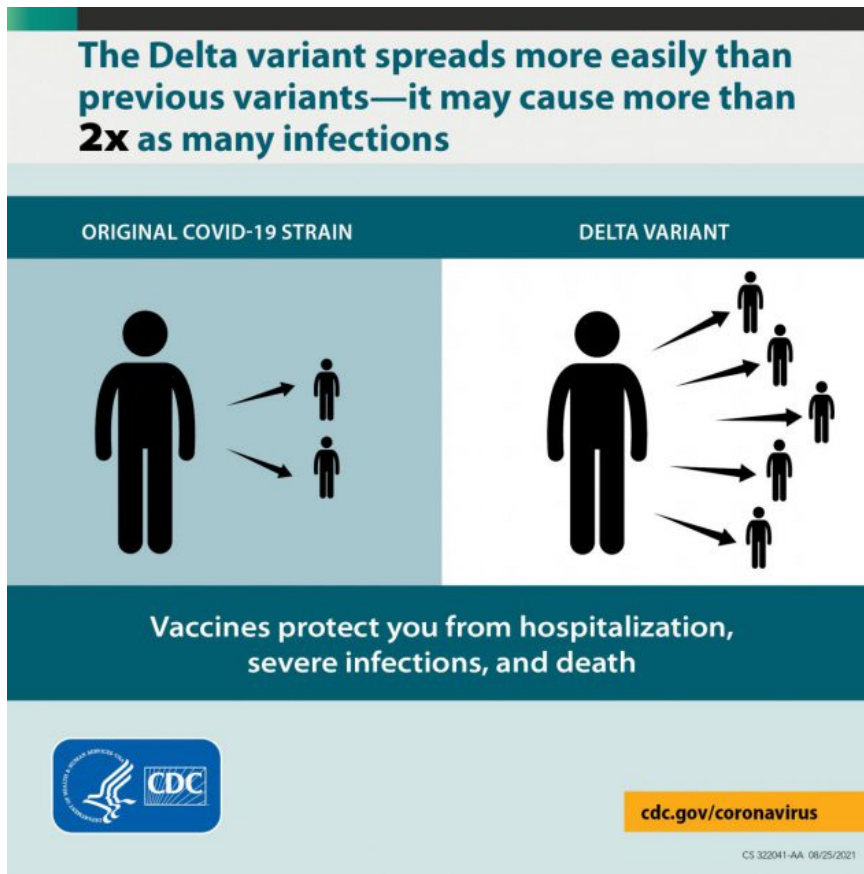
The Delta variant causes more infections and spreads faster than early forms of SARS-CoV-2, the virus that causes COVID-19

- **The Delta variant is more contagious:** The Delta variant is highly contagious, more than 2x as contagious as previous variants.
- **Some data suggest the Delta variant might cause more severe illness than previous variants in unvaccinated people.** In two different studies from Canada and Scotland, patients infected with the Delta variant were more likely to be hospitalized than patients infected with Alpha or the original virus that causes COVID-19. Even so, the vast majority of hospitalization and death caused by COVID-19 are in unvaccinated people.
- **Unvaccinated people remain the greatest concern:** The greatest risk of transmission is

among unvaccinated people who are much more likely to get infected, and therefore transmit the virus. Fully vaccinated people get COVID-19 (known as [breakthrough infections](#)) less often than unvaccinated people. People infected with the Delta variant, including fully vaccinated people with symptomatic breakthrough infections, can transmit the

virus to others. CDC is continuing to assess data on whether fully vaccinated people with asymptomatic breakthrough infections can transmit the virus.

- **Fully vaccinated people with Delta variant breakthrough infections can spread the virus to others. However, vaccinated people appear to spread the virus for a shorter time:** For prior variants, lower amounts of viral genetic material were found in samples taken from fully vaccinated people who had breakthrough infections than from unvaccinated people with COVID-19. For people infected with the Delta variant, similar amounts of viral genetic material have been found among both unvaccinated and fully vaccinated people. However, like prior variants, the amount of viral genetic material may go down faster in fully vaccinated people when compared to unvaccinated people. This means fully vaccinated people will likely spread the virus for less time than unvaccinated people.



[View Larger](#)

## Vaccines

Vaccines in the US are highly effective, including against the Delta variant

- The COVID-19 vaccines approved or authorized in the United States are highly effective at preventing severe disease and death, including against the Delta variant. But they are not 100% effective, and some fully vaccinated people will become infected (called a breakthrough infection) and experience illness. For all people, the vaccine provides the best protection against serious illness and death.
- Vaccines are playing a crucial role in limiting spread of the virus and minimizing severe disease.

Although vaccines are highly effective, they are not perfect, and there will be vaccine breakthrough infections. Millions of Americans are vaccinated, and that number is growing. This means that even though the risk of breakthrough infections is low, there will be thousands of fully vaccinated people who become infected and able to infect others, especially with the surging spread of the Delta variant. [Low vaccination coverage](#) in many communities is driving the current rapid surge in cases involving the Delta variant, which also increases the chances that even more concerning variants could emerge.

- Vaccination is the best way to protect yourself, your family, and your community. High vaccination coverage will reduce spread of the virus and help prevent new variants from emerging. CDC recommends that everyone aged 12 years and older get vaccinated as soon as possible.




## Masks

Given what we know about the Delta variant, vaccine effectiveness, and current vaccine coverage, layered prevention strategies, including wearing masks, are needed to reduce the transmission of this variant

- At this time, as we build the level of vaccination nationwide, we must also use all the prevention strategies available, including masking indoors in public places, to stop transmission and stop the pandemic. Everyone who is able, including fully vaccinated people, should wear masks in public indoor places in areas of [substantial or high transmission](#).

## References

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2. Brown CM, Vostok J, Johnson H, et al. Outbreak of SARS-CoV-2 Infections, Including COVID-19 Vaccine Breakthrough Infections, Associated with Large Public Gatherings — Barnstable County, Massachusetts, July 2021. *MMWR Morb Mortal Wkly Rep*. ePub: 30 July 2021; <https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm>
3. Chia PY, Ong SWX, Chiew CJ, et al. Virological and serological kinetics of SARS-CoV-2 Delta variant vaccine-breakthrough infections: a multi-center cohort study. 2021;doi:doi.org/10.1101/2021.07.28.21261295 [↗](#) .
4. Fisman DN, Tuite AR. Progressive Increase in Virulence of Novel SARS-CoV-2 Variants in Ontario, Canada. *medRxiv*. 2021 Jul 12; <https://doi.org/10.1101/2021.07.05.21260050> [↗](#) .
5. Li B, Deng A, Li K, et al. Viral Infection and Transmission in a Large Well-Traced Outbreak Caused by the Delta SARS-CoV-2 Variant. *medRxiv*. 2021 Jul 12; <https://doi.org/10.1101/2021.07.07.21260122> [↗](#) .
6. Mlcochova P, Kemp S, Dhar S, et al. SARS-CoV-2 B.1.617.2 Delta Variant Emergence and Vaccine Breakthrough. Research Square Platform LLC. 2021 Jun 22; doi:10.21203/rs.3.rs-637724/v1 [↗](#)
7. Musser JM, Christensen PA, Olsen RJ. et al. Delta Variants of SARS-CoV-2 Cause Significantly Increased Vaccine Breakthrough COVID-19 Cases in Houston, Texas. *medRxiv*. 2021 Jul 22; <https://org/10.1101/2021.07.07.21260122>.
8. Nasreen S, Chung H, He S, et al. Effectiveness of COVID-19 vaccines against variants of concern in Ontario, Canada. *medRxiv*. 2021 Jul 16;doi:doi.org/10.1101/2021.06.28.21259420 [↗](#) .
9. Ong SWX, Chiew CJ, Ang LW, et al. Clinical and Virological Features of SARS-CoV-2 Variants of Concern: A Retrospective Cohort Study Comparing B.1.1.7 (Alpha), B.1.315 (Beta), and B.1.617.2

- (Delta). SSRN Journal. 2021 Jun 7; <https://doi.org/10.2139/ssrn.3861566>  .
10. Riemersma KA, Grogan BE, Kirta-Yarbo A, et al. Vaccinated and Unvaccinated Individuals Have Similar Viral Loads in Communities with a High Prevalence of the SARS-CoV-2 Delta Variant. medRxiv. 2021 Jul 31; <https://doi.org/10.1101/2021.07.31.21261387>  .
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Last Updated Aug. 26, 2021

Content source: National Center for Immunization and Respiratory Diseases (NCIRD), Division of Viral Diseases

# Exhibit 6



Centers for Disease Control and Prevention  
CDC 24/7: Saving Lives, Protecting People™



## COVID-19

# Johnson & Johnson's Janssen COVID-19 Vaccine Overview and Safety

Updated Oct. 29, 2021

CDC has updated its recommendations for COVID-19 vaccines with a preference for people to receive an mRNA COVID-19 vaccine (Pfizer-BioNTech and Moderna). Read [CDC's media statement](#).

## General Information

**Name:** JNJ-78436735

**Manufacturer:** Janssen Pharmaceuticals  
Companies of Johnson & Johnson

**Type of Vaccine:** [Viral Vector](#)

**Number of Shots:** 1 shot

**Booster Shot:** At least 2 months after receiving your vaccine. You can get [any of the COVID-19 vaccines](#) authorized in the United States for your booster shot. People who developed [thrombosis with thrombocytopenia syndrome](#) after their initial Janssen vaccine should not receive a Janssen booster dose.

**How Given:** Shot in the muscle of the upper arm


**Does NOT Contain:** Eggs, preservatives, latex, metals

[See Full List of Ingredients Below](#)

## Who Should Get Vaccinated

- The J&J/Janssen COVID-19 Vaccine is recommended for people 18 years and older.
- Learn more about [how CDC is making COVID-19 vaccine recommendations](#).

## Who Should NOT Get Vaccinated

- **If you have had a severe allergic reaction (anaphylaxis) or an immediate allergic reaction**, even if it was not severe, to any [ingredient](#)  in the J&J/Janssen COVID-19 Vaccine (such as polysorbate), you should not get the J&J/Janssen COVID-19 Vaccine.
- A severe allergic reaction is one that needs to be treated with epinephrine or EpiPen or with medical care. Learn about [common side effects of COVID-19 vaccines](#) and when to call a doctor.
- An immediate allergic reaction means a reaction within 4 hours of exposure, including symptoms such as hives, swelling, or wheezing (respiratory distress).

If you aren't able to get the J&J/Janssen COVID-19 Vaccine, you may still be able to get a different type of COVID-19 vaccine. Get more [information for people with allergies](#).

# Johnson & Johnson (J&J)/Janssen COVID-19 Vaccine Ingredients

All COVID-19 vaccine ingredients are safe. Nearly all of the ingredients in COVID-19 vaccines are also the ingredients in many foods – fats, sugars, and salts. The J&J/Janssen COVID-19 vaccine also contains a piece of a modified virus that is not the virus that causes COVID-19. This modified virus is called the vector virus. The vector virus cannot reproduce itself, so it is harmless. This vector virus [gives instructions](#) to cells in the body to create an [immune response](#). This response helps protect you from getting sick with COVID-19 in the future. After the body produces an immune response, it discards all of the vaccine ingredients just as it would discard any information that cells no longer need. This process is a part of normal body functioning.

All COVID-19 vaccines are manufactured with as few ingredients as possible and with very small amounts of each ingredient. Each ingredient in the vaccine serves a specific purpose as seen in the table below.

## Full list of ingredients

The J&J/Janssen COVID-19 Vaccine contains the following ingredients:



Type of Ingredient	Ingredient	Purpose
A harmless version of a virus unrelated to the COVID-19 virus	<ul style="list-style-type: none"> <li>Recombinant, replication-incompetent Ad26 vector, encoding a stabilized variant of the SARS-CoV-2 Spike (S) protein</li> </ul>	Provides instructions the body uses to build a harmless piece of a protein from the virus that causes COVID-19. This protein causes an immune response that helps protect the body from getting sick with COVID-19 in the future.
Sugars, salts, acid, and acid stabilizer	<ul style="list-style-type: none"> <li>Polysorbate-80</li> <li>2-hydroxypropyl-<math>\beta</math>-cyclodextrin</li> <li>Trisodium citrate dihydrate</li> <li>Sodium chloride (basic table salt)</li> <li>Citric acid monohydrate (closely related to lemon juice)</li> <li>Ethanol (a type of alcohol)</li> </ul>	Work together to help keep the vaccine molecules stable while the vaccine is manufactured, shipped, and stored until it is ready to be given to a vaccine recipient.

## Ingredients that are NOT used in COVID-19 vaccines

The above table lists ALL ingredients in the J&J/Janssen COVID-19 Vaccine. There are NO ingredients in this vaccine beyond what is listed in that table. The J&J/Janssen COVID-19 Vaccine has

- **No preservatives** like thimerosal or mercury or any other preservatives.
- **No antibiotics** like sulfonamide or any other antibiotics.
- **No medicines or therapeutics** like ivermectin or any other medications.
- **No tissues** like aborted fetal cells, gelatin, or any materials from any animal.
- **No food proteins** like eggs or egg products, gluten, peanuts, tree nuts, nut products, or any nut byproducts (COVID-19 vaccines are not manufactured in facilities that produce food products).
- **No metals** like iron, nickel, cobalt, titanium, rare earth alloys, or any manufactured products like microelectronics, electrodes, carbon nanotubes or other nanostructures, or nanowire semiconductors.
- **No latex.** The vial stoppers used to hold the vaccine also do not contain latex.

## Possible Side Effects

In the arm where you got the shot:

- Pain
- Redness
- Swelling

Throughout the rest of your body:

- Tiredness
- Headache
- Muscle pain
- Chills
- Fever
- Nausea

These side effects happen within a day or two of getting the vaccine. They are normal signs that your body is building protection and should go away within a few days.

## Fainting After Vaccination

Fainting (syncope) and other events that may be related to anxiety like rapid breathing, low blood pressure, numbness, or tingling can happen after getting any vaccine. Although uncommon, these events are not unexpected, and they are generally not serious.

According to information from the Vaccine Adverse Event Reporting System (VAERS), there were 653 reports of fainting events (fainting and near-fainting) among nearly 8 million doses of J&J/Janssen COVID-19 Vaccine administered in the United States in March and

April 2021. This translates to a rate of about 8 fainting events for every 100,000 doses of the J&J/Janssen COVID-19 Vaccine given. These events occurred during the recommended 15-minute wait after vaccination. It's not clear at this time whether these events were associated with the vaccine or with anxiety, possibly related to preexisting concerns some people who chose to get the one-dose J&J/Janssen COVID-19 Vaccine may have about needles or shots.

By comparison, the rate of fainting after flu vaccination in 2019–2020 was 0.05 per 100,000 doses.

Learn more about [possible side effects after getting a COVID-19 vaccine](#).

### Other Authorized and Recommended COVID-19 Vaccines in the United States

- [Pfizer-BioNTech](#)
- [Moderna](#)

**You should get a COVID-19 vaccination as soon as possible.** Do not wait for a specific brand. All currently authorized and recommended COVID-19 vaccines are [safe](#) and [effective](#), and CDC does not recommend one vaccine over another.

CDC does not recommend mixing products for an initial 2-dose vaccine series or additional doses. Mixing and matching COVID-19 vaccines is allowed for booster shots.

## Safety Data Summary

- In clinical trials, side effects were common within 7 days of getting vaccinated and were mostly mild. Some people had side effects that affected their ability to do daily activities.
- Side effects were more common in people 18–59 years old compared to people 60 years and older.
- There is a plausible causal relationship between J&J/Janssen COVID-19 Vaccine and a rare and serious adverse event—blood clots with low platelets (thrombosis with thrombocytopenia syndrome, or TTS).
  - It occurs at a rate of about 7 per 1 million vaccinated women between 18 and 49 years old.
  - For women 50 years and older and men of all ages, this adverse event is even more rare.
- Find the latest [updates on J&J/Janssen COVID-19 Vaccine](#) and blood clots with low

platelets.

- CDC will continue to provide updates as we learn more about the safety of the J&J/Janssen COVID-19 Vaccine in [real-world conditions](#).

Learn more about [vaccine safety monitoring](#) after a vaccine is authorized or approved for use.

## How Well the Vaccine Works

- The J&J/Janssen COVID-19 Vaccine was 66.3% effective in [clinical trials](#) (efficacy) at preventing laboratory-confirmed COVID-19 infection in people who received the vaccine and had no evidence of being previously infected. People had the most protection 2 weeks after getting vaccinated.
- In the clinical trials, the vaccine had high efficacy at preventing hospitalization and death in people who did get sick. No one who got COVID-19 at least 4 weeks after receiving the J&J/Janssen COVID-19 Vaccine had to be hospitalized.
- CDC will continue to provide updates as we learn more about how well the J&J/Janssen COVID-19 Vaccine works in [real-world conditions](#).

## Clinical Trial Demographic Information

Clinical trials for the J&J/Janssen COVID-19 Vaccine included people from the following racial, ethnic, age, and sex categories:

Race:

- 62% White
- 17% Black or African American
- 8% American Indian or Alaska Native
- 5% multiple races
- 4% Asian
- 0.3% Native Hawaiian or Other Pacific Islander

Ethnicity:

- 45% Hispanic or Latino
- 52% not Hispanic or Latino
- 3% unknown

Sex:

- 56% male
- 45% female
- <0.1% undifferentiated or unknown sex

Age breakdown:

- 67% 18–59 years
- 34% 60 years and older
  - 20% 65 years and older
  - 4% 75 years and older

Forty (40.8%) of people who participated in the clinical trials had at least one condition that put them at risk of severe illness from COVID-19. The most frequent underlying medical conditions among participants were obesity (28.7%), high blood pressure (10.2%), type 2 diabetes (7.3%), and HIV infection (2.7%).

Learn more about [demographic information for people who participated in the trials](#) [PDF – 62 pages] [↗](#).

## Related Pages

- › [Possible Side Effects](#)
- › [Safety of COVID-19 Vaccines](#)
- › [Benefits of Getting Vaccinated](#)
- › [How Vaccines Work](#)
- › [Viral Vector Vaccines](#)



### For Healthcare Workers

[Johnson & Johnson's Janssen COVID-19 Vaccine](#): General information, schedule, and administration overview.

## More Information

[Johnson & Johnson's Janssen COVID-19 Vaccine Fact Sheet for Recipients and Caregivers \[242 KB, 7 pages\]](#) [↗](#)

[Safety and Reactogenicity Data](#)

Last Updated Oct. 29, 2021

Content source: [National Center for Immunization and Respiratory Diseases \(NCIRD\)](#), Division of Viral Diseases

# Exhibit 7

Your Marine Corps

# 103 Marines already separated for refusing COVID-19 vaccine

By Philip Athey

📅 Dec 16, 01:11 PM



Marines stationed on Marine Corps Air Station Yuma, Arizona, receive their COVID-19 vaccinations Feb. 16. (Lance Cpl John Hall/Marine Corps)

As of Thursday, a total of 103 Marines have been separated from the Corps for refusing to get vaccinated against COVID-19, the Marine Corps confirmed.

The active duty Marine force had until Nov. 28 to be vaccinated or apply for an exemption. All who failed to meet that timeline will be administratively separated from the Marine Corps, according to a previously published administrative message.



Currently 95% of the active duty Marine Corps is partially or fully vaccinated and the Corps has approved 1,007 exemptions to the vaccine, Maj. Jim Stenger, a Marine Corps spokesman, told Marine Corps Times in an email.

## RELATED



### Military COVID-19 deaths on upswing as vaccination deadlines pass

After a fall surge, deaths feel to five in November, with three so far in December.

By [Meghann Myers](#)

Marines discharged solely for refusing the vaccine will receive either an honorable or general discharge, according to provisions in the 2022 National Defense Authorization Act, which passed Congress on Wednesday and is awaiting President Joe Biden's signature.

All approved exemptions have either been medical or administrative exemptions.

A total of 3,144 Marines have applied for religious exemptions. As of Thursday, 2,863 have been processed and none have been approved, Stenger said in the email.

The Marine Corps has no records of approving religious exemptions for vaccines in the past 10 years, Marine Corps Times previously reported.

The Marine Corps currently has the lowest vaccination rate among the Department of Defense.

The [Air Force and Space Force](#) had 96% of forces meet its Nov. 2 deadline, while the [Navy reported that 96.3%](#) of active duty sailors were fully vaccinated.

With the active duty [Army deadline passing on](#) Wednesday, the service reported that 98% of its active duty force was fully vaccinated.

If total vaccination numbers do not increase, the Corps may end up administratively separating more than 8,000 Marines for refusing to get vaccinated against COVID-19.

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### Marine amphibious assault vehicles permanently pulled from deployments

Only 10 of 3rd Assault Amphibian Battalion's nearly 200 vehicles passed the more intense inspection.

### 2 special ops Marine vets among indicted in double kidnapping, murder case

Force recon Marine veteran Bryon Brockway, 46, and MARSOC Marine veteran Adam Carey, 30, allegedly kidnapped and shot a couple in a gun-for-hire plot.

### US Marine commandant: Fund 'Force Design 2030,' or leave the Corps in a 'lurch'

The Marines ditched old gear, but the new systems to support future operating concepts haven't arrived yet. If the Pentagon and Congress don't support Force Design 2030 now, the commandant says, they'd be leaving the service in a tough...

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The lawmakers noted the military has had to put 3,500 families in temporary housing.

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Your housing allowance increase will depend on your rank, location, dependent status and other factors.

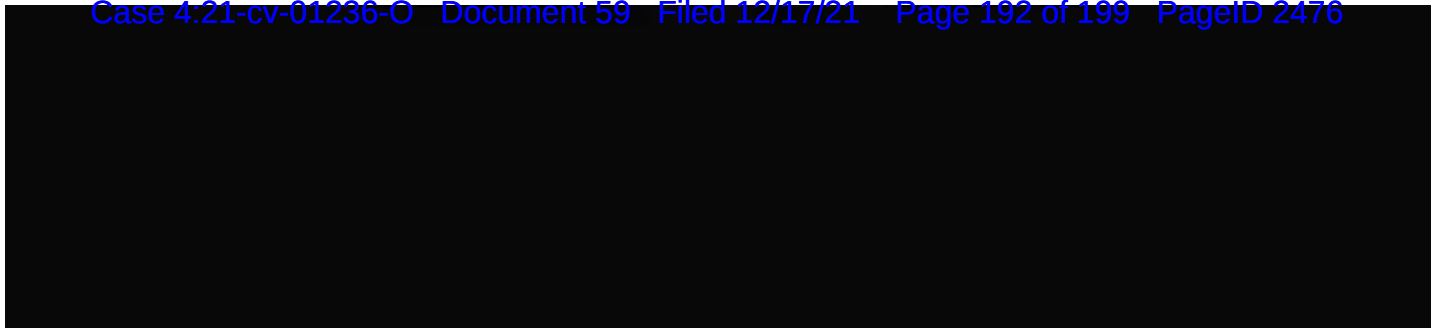
## All-out war or 'creeping occupation' among Putin options, says Ukraine MoD

There are two potential courses of action Putin could take — either all-out war or a “creeping occupation” of Ukraine, that nation's Ministry of Defense tells Military Times.

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# Exhibit 8

# Pentagon stops implementing vaccine mandate for defense contractors

A Pentagon spokeswoman says the department has stopped implementing the vaccine mandate for federal contractors.

By VALERIE INSINNA on December 14, 2021 at 3:18 PM



*U.S. President Joe Biden speaks about the coronavirus pandemic and vaccine mandate on October 14, 2021 in Washington, DC (Getty Images Drew Angerer)*

WASHINGTON: The race to vaccinate defense workers is now at a standstill, after a US district court judge blocked the implementation of the vaccine mandate for federal contractors last week.

The Defense Department issued a Dec. 9 memo instructing its contracting officers to stop enforcing President Joe Biden's Sept. 9 executive order, which required workers for federal contractors to be vaccinated for COVID 19 by Jan 18. The memo was first reported by Politico.

The memo was released after a judge for the US District Court for the Southern District of Georgia issued a nationwide injunction on Dec. 7, which prevents the vaccine mandate from being carried out.

Pentagon spokeswoman Jessica Maxwell acknowledged that the department has "provided guidance to contracting officers to ensure compliance with the court order and instructed contracting officers not to enforce the vaccination mandate at this time," she said in a statement.

She added that the department "fully supports" Biden's executive order and "has consistently stated that having a fully vaccinated workforce is one of the surest ways to bolster our readiness and safely meet national security readiness requirements."

Exactly which programs and workers would be covered under the mandate has been a source of confusion across industry and government.

The Pentagon's original order required contractors to be vaccinated for all new Defense Department contracts worth \$250,000 or more for services — including construction — performed in the United States. Contracting officers also have the latitude to mandate vaccination for workers involved in new and existing contracts for products as well as contracts valued at less than \$250,000.



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Whether a contract is classified as a “service” or a “product” is typically determined by its Product Service Code, Maxwell said. Products are tangible goods owned by the Defense Department military like a laptop or aircraft carrier while services are harder to define and could include products that the department does not own, such as hardware leased by a military service.

In October, several companies — including Northrop Grumman and Raytheon — indicated they had begun hiring workers under the expectation that companies would be forced to lay off employees who did not conform with the mandate.

In November, Huntington Ingalls Industries announced that it would no longer enforce the vaccination mandate for its Ingalls Shipbuilding and Newport News Shipbuilding workers. “Our customer has confirmed that our contracts do not include a requirement to implement the mandate,” HII President and CEO Mike Petters said in a memo to employees.

In a recent interview with Breaking Defense, BAE Systems Inc. CEO Tom Arseneault said his company is “feeling” the impacts of the COVID mandate.

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### **NDAA passes Senate at \$740 billion; heads to Biden’s desk**

The legislation includes funding increases for deterrence initiatives in the Indo-Pacific and Europe, and approves Air Force efforts to divest of some legacy aircraft.

By ANDREW EVERSSEN

“I think we’re right on the verge of [mid-90% vaccination rate], adding more every day, but we will get to a point where there’ll be some percentage, hopefully small, of the population who will not comply. And so we’re working with the administration, with DoD, to find ways to try to create some flexibility and maybe buy a little bit more time so that we can either find ways to backfill those resources or get them over the hump.



Topics: COVID-19 coronavirus, Huntington-Ingalls Industries, Joe Biden, Northrop, Raytheon, vaccine mandate

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I hereby certify that on December 17, 2021, I electronically filed the foregoing document through the Court's ECF system, which automatically notifies counsel of record for each party.

/s/Heather Gebelin Hacker  
HEATHER GEBELIN HACKER